

1 **SALES AND USE TAXATION OF AMUSEMENT**
2 **DEVICES AND CLEANING OR WASHING OF**
3 **TANGIBLE PERSONAL PROPERTY**

4 2006 GENERAL SESSION

5 STATE OF UTAH

6 **Chief Sponsor: Wayne A. Harper**

7 Senate Sponsor: Curtis S. Bramble

8
9 **LONG TITLE**

10 **General Description:**

11 This bill amends the Sales and Use Tax Act to address the sales and use taxation of the
12 right to use or operate an amusement device and the cleaning or washing of tangible
13 personal property.

14 **Highlighted Provisions:**

15 This bill:

- 16 ▶ provides definitions of "assisted amusement device," "assisted cleaning or washing
17 of tangible personal property," and "unassisted amusement device";
- 18 ▶ repeals the definition of "coin-operated amusement device";
- 19 ▶ modifies the sales and use taxation of sales or rentals of the right to use or operate
20 certain amusement devices;
- 21 ▶ modifies the sales and use taxation of cleaning or washing of tangible personal
22 property; and
- 23 ▶ makes technical changes.

24 **Monies Appropriated in this Bill:**

25 None

26 **Other Special Clauses:**

27 This bill takes effect on July 1, 2006.

28 **Utah Code Sections Affected:**

29 AMENDS:

30 **59-1-403**, as last amended by Chapter 204, Laws of Utah 2005
 31 **59-12-102**, as last amended by Chapters 158 and 246, Laws of Utah 2005
 32 **59-12-103 (Effective 07/01/06)**, as last amended by Chapter 1, Laws of Utah 2005,
 33 First Special Session
 34 **59-12-104**, as last amended by Chapters 158, 203, 209, 240 and 246, Laws of Utah
 35 2005
 36 **59-12-105 (Portions Eff 07/01/06 See 59-1-1201)**, as last amended by Chapters 156
 37 and 255, Laws of Utah 2004

39 *Be it enacted by the Legislature of the state of Utah:*

40 Section 1. Section **59-1-403** is amended to read:

41 **59-1-403. Confidentiality -- Exceptions -- Penalty -- Application to property tax.**

42 (1) (a) Except as provided in this section, any of the following may not divulge or
 43 make known in any manner any information gained by that person from any return filed with
 44 the commission:

- 45 (i) a tax commissioner;
- 46 (ii) an agent, clerk, or other officer or employee of the commission; or
- 47 (iii) a representative, agent, clerk, or other officer or employee of any county, city, or
 48 town.

49 (b) Except as provided in Subsection (1)(c), an official charged with the custody of a
 50 return filed with the commission is not required to produce the return or evidence of anything
 51 contained in the return in any action or proceeding in any court, except:

- 52 (i) in accordance with judicial order;
- 53 (ii) on behalf of the commission in any action or proceeding under:
 - 54 (A) this title; or
 - 55 (B) other law under which persons are required to file returns with the commission;
- 56 (iii) on behalf of the commission in any action or proceeding to which the commission
 57 is a party; or

58 (iv) on behalf of any party to any action or proceeding under this title if the report or
59 facts shown by the return are directly involved in the action or proceeding.

60 (c) Notwithstanding Subsection (1)(b), a court may require the production of, and may
61 admit in evidence, any portion of a return or of the facts shown by the return, as are specifically
62 pertinent to the action or proceeding.

63 (2) This section does not prohibit:

64 (a) a person or that person's duly authorized representative from receiving a copy of
65 any return or report filed in connection with that person's own tax;

66 (b) the publication of statistics as long as the statistics are classified to prevent the
67 identification of particular reports or returns; and

68 (c) the inspection by the attorney general or other legal representative of the state of the
69 report or return of any taxpayer:

70 (i) who brings action to set aside or review a tax based on the report or return;

71 (ii) against whom an action or proceeding is contemplated or has been instituted under
72 this title; or

73 (iii) against whom the state has an unsatisfied money judgment.

74 (3) (a) Notwithstanding Subsection (1) and for purposes of administration, the
75 commission may by rule, made in accordance with Title 63, Chapter 46a, Utah Administrative
76 Rulemaking Act, provide for a reciprocal exchange of information with:

77 (i) the United States Internal Revenue Service; or

78 (ii) the revenue service of any other state.

79 (b) Notwithstanding Subsection (1) and for all taxes except individual income tax and
80 corporate franchise tax, the commission may by rule, made in accordance with Title 63,
81 Chapter 46a, Utah Administrative Rulemaking Act, share information gathered from returns
82 and other written statements with the federal government, any other state, any of the political
83 subdivisions of another state, or any political subdivision of this state, except as limited by
84 Sections 59-12-209 and 59-12-210, if these political subdivisions or the federal government
85 grant substantially similar privileges to this state.

86 (c) Notwithstanding Subsection (1) and for all taxes except individual income tax and
87 corporate franchise tax, the commission may by rule, in accordance with Title 63, Chapter 46a,
88 Utah Administrative Rulemaking Act, provide for the issuance of information concerning the
89 identity and other information of taxpayers who have failed to file tax returns or to pay any tax
90 due.

91 (d) Notwithstanding Subsection (1), the commission shall provide to the Solid and
92 Hazardous Waste Control Board executive secretary, as defined in Section 19-6-102, as
93 requested by the executive secretary, any records, returns, or other information filed with the
94 commission under Chapter 13, Motor and Special Fuel Tax Act, or Section 19-6-410.5
95 regarding the environmental assurance program participation fee.

96 (e) Notwithstanding Subsection (1), at the request of any person the commission shall
97 provide that person sales and purchase volume data reported to the commission on a report,
98 return, or other information filed with the commission under:

- 99 (i) Chapter 13, Part 2, Motor Fuel; or
- 100 (ii) Chapter 13, Part 4, Aviation Fuel.

101 (f) Notwithstanding Subsection (1), upon request from a tobacco product manufacturer,
102 as defined in Section 59-22-202, the commission shall report to the manufacturer:

103 (i) the quantity of cigarettes, as defined in Section 59-22-202, produced by the
104 manufacturer and reported to the commission for the previous calendar year under Section
105 59-14-407; and

106 (ii) the quantity of cigarettes, as defined in Section 59-22-202, produced by the
107 manufacturer for which a tax refund was granted during the previous calendar year under
108 Section 59-14-401 and reported to the commission under Subsection 59-14-401(1)(a)(v).

109 (g) Notwithstanding Subsection (1), the commission shall notify manufacturers,
110 distributors, wholesalers, and retail dealers of a tobacco product manufacturer that is prohibited
111 from selling cigarettes to consumers within the state under Subsection 59-14-210(2).

112 (h) Notwithstanding Subsection (1), the commission may:

- 113 (i) provide to the Division of Consumer Protection within the Department of

114 Commerce and the attorney general data:

115 (A) reported to the commission under Section 59-14-212; or

116 (B) related to a violation under Section 59-14-211; and

117 (ii) upon request provide to any person data reported to the commission under

118 Subsections 59-14-212(1)(a) through (c) and Subsection 59-14-212(1)(g).

119 (i) Notwithstanding Subsection (1), the commission shall, at the request of a committee
120 of the Legislature, Office of the Legislative Fiscal Analyst, or Governor's Office of Planning
121 and Budget, provide to the committee or office the total amount of revenues collected by the
122 commission under Chapter 24, Radioactive Waste Facility Tax Act, for the time period
123 specified by the committee or office.

124 (j) Notwithstanding Subsection (1), the commission shall at the request of the
125 Legislature provide to the Legislature the total amount of sales or uses exempt under
126 Subsection 59-12-104[~~(50)~~](49) reported to the commission in accordance with Section
127 59-12-105.

128 (k) Notwithstanding Subsection (1), the commission shall make the directory required
129 by Section 59-14-603 available for public inspection.

130 (l) Notwithstanding Subsection (1), the commission shall comply with the reporting
131 requirements of Section 10-1-409.

132 (m) Notwithstanding Subsection (1), the commission may share information with
133 federal, state, or local agencies as provided in Subsection 59-14-606(3).

134 (4) (a) Reports and returns shall be preserved for at least three years.

135 (b) After the three-year period provided in Subsection (4)(a) the commission may
136 destroy a report or return.

137 (5) (a) Any person who violates this section is guilty of a class A misdemeanor.

138 (b) If the person described in Subsection (5)(a) is an officer or employee of the state,
139 the person shall be dismissed from office and be disqualified from holding public office in this
140 state for a period of five years thereafter.

141 (6) Except as provided in Section 59-1-404, this part does not apply to the property tax.

142 Section 2. Section **59-12-102** is amended to read:

143 **59-12-102. Definitions.**

144 As used in this chapter:

145 (1) (a) "Admission or user fees" includes season passes.

146 (b) "Admission or user fees" does not include annual membership dues to private
147 organizations.

148 (2) "Agreement" means the Streamlined Sales and Use Tax Agreement described in
149 Section 59-12-102.1.

150 (3) "Agreement combined tax rate" means the sum of the tax rates:

151 (a) listed under Subsection (4); and

152 (b) that are imposed within a local taxing jurisdiction.

153 (4) "Agreement sales and use tax" means a tax imposed under:

154 (a) Subsection 59-12-103(2)(a)(i);

155 (b) Section 59-12-204;

156 (c) Section 59-12-401;

157 (d) Section 59-12-402;

158 (e) Section 59-12-501;

159 (f) Section 59-12-502;

160 (g) Section 59-12-703;

161 (h) Section 59-12-802;

162 (i) Section 59-12-804;

163 (j) Section 59-12-1001;

164 (k) Section 59-12-1102;

165 (l) Section 59-12-1302;

166 (m) Section 59-12-1402; or

167 (n) Section 59-12-1503.

168 (5) "Aircraft" is as defined in Section 72-10-102.

169 (6) "Alcoholic beverage" means a beverage that:

170 (a) is suitable for human consumption; and

171 (b) contains .5% or more alcohol by volume.

172 (7) "Area agency on aging" is as defined in Section 62A-3-101.

173 (8) "Assisted amusement device" means an amusement device, skill device, or ride
174 device that is started and stopped by an individual:

175 (a) who is not the purchaser or renter of the right to use or operate the amusement
176 device, skill device, or ride device; and

177 (b) at the direction of the seller of the right to use the amusement device, skill device,
178 or ride device.

179 (9) "Assisted cleaning or washing of tangible personal property" means cleaning or
180 washing of tangible personal property if the cleaning or washing labor is primarily performed
181 by an individual:

182 (a) who is not the purchaser of the cleaning or washing of the tangible personal
183 property; and

184 (b) at the direction of the seller of the cleaning or washing of the tangible personal
185 property.

186 [~~8~~] (10) "Authorized carrier" means:

187 (a) in the case of vehicles operated over public highways, the holder of credentials
188 indicating that the vehicle is or will be operated pursuant to both the International Registration
189 Plan and the International Fuel Tax Agreement;

190 (b) in the case of aircraft, the holder of a Federal Aviation Administration operating
191 certificate or air carrier's operating certificate; or

192 (c) in the case of locomotives, freight cars, railroad work equipment, or other rolling
193 stock, the holder of a certificate issued by the United States Surface Transportation Board.

194 [~~9~~] (11) (a) Except as provided in Subsection [~~9~~] (11)(b), "biomass energy" means
195 any of the following that is used as the primary source of energy to produce fuel or electricity:

196 (i) material from a plant or tree; or

197 (ii) other organic matter that is available on a renewable basis, including:

- 198 (A) slash and brush from forests and woodlands;
- 199 (B) animal waste;
- 200 (C) methane produced:
- 201 (I) at landfills; or
- 202 (II) as a byproduct of the treatment of wastewater residuals;
- 203 (D) aquatic plants; and
- 204 (E) agricultural products.
- 205 (b) "Biomass energy" does not include:
- 206 (i) black liquor;
- 207 (ii) treated woods; or
- 208 (iii) biomass from municipal solid waste other than methane produced:
- 209 (A) at landfills; or
- 210 (B) as a byproduct of the treatment of wastewater residuals.
- 211 ~~[(10)]~~ (12) "Certified automated system" means software certified by the governing
- 212 board of the agreement in accordance with Section 59-12-102.1 that:
- 213 (a) calculates the agreement sales and use tax imposed within a local taxing
- 214 jurisdiction:
- 215 (i) on a transaction; and
- 216 (ii) in the states that are members of the agreement;
- 217 (b) determines the amount of agreement sales and use tax to remit to a state that is a
- 218 member of the agreement; and
- 219 (c) maintains a record of the transaction described in Subsection ~~[(10)]~~ (12)(a)(i).
- 220 ~~[(11)]~~ (13) "Certified service provider" means an agent certified:
- 221 (a) by the governing board of the agreement in accordance with Section 59-12-102.1;
- 222 and
- 223 (b) to perform all of a seller's sales and use tax functions for an agreement sales and
- 224 use tax other than the seller's obligation under Section 59-12-107.4 to remit a tax on the seller's
- 225 own purchases.

226 ~~[(12)]~~ (14) (a) Subject to Subsection ~~[(12)]~~ (14)(b), "clothing" means all human
227 wearing apparel suitable for general use.

228 (b) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
229 commission shall make rules:

230 (i) listing the items that constitute "clothing"; and

231 (ii) that are consistent with the list of items that constitute "clothing" under the
232 agreement.

233 ~~[(13) (a) For purposes of Subsection 59-12-104(42), "coin-operated amusement~~
234 ~~device" means:]~~

235 ~~[(i) a coin-operated amusement, skill, or ride device;]~~

236 ~~[(ii) that is not controlled through seller-assisted, over-the-counter, sales of tokens;~~
237 ~~and]~~

238 ~~[(iii) includes a music machine, pinball machine, billiard machine, video game~~
239 ~~machine, arcade machine, and a mechanical or electronic skill game or ride.]~~

240 ~~[(b) For purposes of Subsection 59-12-104(42), "coin-operated amusement device"~~
241 ~~does not mean a coin-operated amusement device possessing a coinage mechanism that:]~~

242 ~~[(i) accepts and registers multiple denominations of coins; and]~~

243 ~~[(ii) allows the seller to collect the sales and use tax at the time an amusement device is~~
244 ~~activated and operated by a person inserting coins into the device.]~~

245 ~~[(14)]~~ (15) "Commercial use" means the use of gas, electricity, heat, coal, fuel oil, or
246 other fuels that does not constitute industrial use under Subsection ~~[(34)]~~ (35) or residential use
247 under Subsection ~~[(68)]~~ (69).

248 ~~[(15)]~~ (16) (a) "Common carrier" means a person engaged in or transacting the
249 business of transporting passengers, freight, merchandise, or other property for hire within this
250 state.

251 (b) (i) "Common carrier" does not include a person who, at the time the person is
252 traveling to or from that person's place of employment, transports a passenger to or from the
253 passenger's place of employment.

254 (ii) For purposes of Subsection [~~(15)~~] (16)(b)(i), in accordance with Title 63, Chapter
255 46a, Utah Administrative Rulemaking Act, the commission may make rules defining what
256 constitutes a person's place of employment.

257 [~~(16)~~] (17) "Component part" includes:

258 (a) poultry, dairy, and other livestock feed, and their components;

259 (b) baling ties and twine used in the baling of hay and straw;

260 (c) fuel used for providing temperature control of orchards and commercial
261 greenhouses doing a majority of their business in wholesale sales, and for providing power for
262 off-highway type farm machinery; and

263 (d) feed, seeds, and seedlings.

264 [~~(17)~~] (18) "Computer" means an electronic device that accepts information:

265 (a) (i) in digital form; or

266 (ii) in a form similar to digital form; and

267 (b) manipulates that information for a result based on a sequence of instructions.

268 [~~(18)~~] (19) "Computer software" means a set of coded instructions designed to cause:

269 (a) a computer to perform a task; or

270 (b) automatic data processing equipment to perform a task.

271 [~~(19)~~] (20) "Construction materials" means any tangible personal property that will be
272 converted into real property.

273 [~~(20)~~] (21) "Delivered electronically" means delivered to a purchaser by means other
274 than tangible storage media.

275 [~~(21)~~] (22) (a) "Delivery charge" means a charge:

276 (i) by a seller of:

277 (A) tangible personal property; or

278 (B) services; and

279 (ii) for preparation and delivery of the tangible personal property or services described
280 in Subsection [~~(21)~~] (22)(a)(i) to a location designated by the purchaser.

281 (b) "Delivery charge" includes a charge for the following:

- 282 (i) transportation;
- 283 (ii) shipping;
- 284 (iii) postage;
- 285 (iv) handling;
- 286 (v) crating; or
- 287 (vi) packing.
- 288 [~~(22)~~] (23) "Dietary supplement" means a product, other than tobacco, that:
- 289 (a) is intended to supplement the diet;
- 290 (b) contains one or more of the following dietary ingredients:
- 291 (i) a vitamin;
- 292 (ii) a mineral;
- 293 (iii) an herb or other botanical;
- 294 (iv) an amino acid;
- 295 (v) a dietary substance for use by humans to supplement the diet by increasing the total
- 296 dietary intake; or
- 297 (vi) a concentrate, metabolite, constituent, extract, or combination of any ingredient
- 298 described in Subsections [~~(22)~~] (23)(b)(i) through (v);
- 299 (c) (i) except as provided in Subsection [~~(22)~~] (23)(c)(ii), is intended for ingestion in:
- 300 (A) tablet form;
- 301 (B) capsule form;
- 302 (C) powder form;
- 303 (D) softgel form;
- 304 (E) gelcap form; or
- 305 (F) liquid form; or
- 306 (ii) notwithstanding Subsection [~~(22)~~] (23)(c)(i), if the product is not intended for
- 307 ingestion in a form described in Subsections [~~(22)~~] (23)(c)(i)(A) through (F), is not
- 308 represented:
- 309 (A) as conventional food; and

- 310 (B) for use as a sole item of:
- 311 (I) a meal; or
- 312 (II) the diet; and
- 313 (d) is required to be labeled as a dietary supplement:
- 314 (i) identifiable by the "Supplemental Facts" box found on the label; and
- 315 (ii) as required by 21 C.F.R. Sec. 101.36.
- 316 [~~(23)~~] (24) (a) "Direct mail" means printed material delivered or distributed by United
- 317 States mail or other delivery service:
- 318 (i) to:
- 319 (A) a mass audience; or
- 320 (B) addressees on a mailing list provided by a purchaser of the mailing list; and
- 321 (ii) if the cost of the printed material is not billed directly to the recipients.
- 322 (b) "Direct mail" includes tangible personal property supplied directly or indirectly by a
- 323 purchaser to a seller of direct mail for inclusion in a package containing the printed material.
- 324 (c) "Direct mail" does not include multiple items of printed material delivered to a
- 325 single address.
- 326 [~~(24)~~] (25) (a) "Drug" means a compound, substance, or preparation, or a component of
- 327 a compound, substance, or preparation that is:
- 328 (i) recognized in:
- 329 (A) the official United States Pharmacopoeia;
- 330 (B) the official Homeopathic Pharmacopoeia of the United States;
- 331 (C) the official National Formulary; or
- 332 (D) a supplement to a publication listed in Subsections [~~(24)~~] (25)(a)(i)(A) through
- 333 (C);
- 334 (ii) intended for use in the:
- 335 (A) diagnosis of disease;
- 336 (B) cure of disease;
- 337 (C) mitigation of disease;

- 338 (D) treatment of disease; or
- 339 (E) prevention of disease; or
- 340 (iii) intended to affect:
- 341 (A) the structure of the body; or
- 342 (B) any function of the body.
- 343 (b) "Drug" does not include:
- 344 (i) food and food ingredients;
- 345 (ii) a dietary supplement;
- 346 (iii) an alcoholic beverage; or
- 347 (iv) a prosthetic device.
- 348 [~~(25)~~] (26) (a) Except as provided in Subsection [~~(25)~~] (26)(c), "durable medical
- 349 equipment" means equipment that:
- 350 (i) can withstand repeated use;
- 351 (ii) is primarily and customarily used to serve a medical purpose;
- 352 (iii) generally is not useful to a person in the absence of illness or injury; and
- 353 (iv) is not worn in or on the body.
- 354 (b) "Durable medical equipment" includes parts used in the repair or replacement of the
- 355 equipment described in Subsection [~~(25)~~] (26)(a).
- 356 (c) Notwithstanding Subsection [~~(25)~~] (26)(a), "durable medical equipment" does not
- 357 include mobility enhancing equipment.
- 358 [~~(26)~~] (27) "Electronic" means:
- 359 (a) relating to technology; and
- 360 (b) having:
- 361 (i) electrical capabilities;
- 362 (ii) digital capabilities;
- 363 (iii) magnetic capabilities;
- 364 (iv) wireless capabilities;
- 365 (v) optical capabilities;

- 366 (vi) electromagnetic capabilities; or
- 367 (vii) capabilities similar to Subsections [~~(26)~~] (27)(b)(i) through (vi).
- 368 [~~(27)~~] (28) (a) "Food and food ingredients" means substances:
- 369 (i) regardless of whether the substances are in:
- 370 (A) liquid form;
- 371 (B) concentrated form;
- 372 (C) solid form;
- 373 (D) frozen form;
- 374 (E) dried form; or
- 375 (F) dehydrated form; and
- 376 (ii) that are:
- 377 (A) sold for:
- 378 (I) ingestion by humans; or
- 379 (II) chewing by humans; and
- 380 (B) consumed for the substance's:
- 381 (I) taste; or
- 382 (II) nutritional value.
- 383 (b) "Food and food ingredients" does not include:
- 384 (i) an alcoholic beverage;
- 385 (ii) tobacco; or
- 386 (iii) prepared food.
- 387 [~~(28)~~] (29) (a) "Fundraising sales" means sales:
- 388 (i) (A) made by a school; or
- 389 (B) made by a school student;
- 390 (ii) that are for the purpose of raising funds for the school to purchase equipment,
- 391 materials, or provide transportation; and
- 392 (iii) that are part of an officially sanctioned school activity.
- 393 (b) For purposes of Subsection [~~(28)~~] (29)(a)(iii), "officially sanctioned school activity"

394 means a school activity:

395 (i) that is conducted in accordance with a formal policy adopted by the school or school
396 district governing the authorization and supervision of fundraising activities;

397 (ii) that does not directly or indirectly compensate an individual teacher or other
398 educational personnel by direct payment, commissions, or payment in kind; and

399 (iii) the net or gross revenues from which are deposited in a dedicated account
400 controlled by the school or school district.

401 [~~(29)~~] (30) "Geothermal energy" means energy contained in heat that continuously
402 flows outward from the earth that is used as the sole source of energy to produce electricity.

403 [~~(30)~~] (31) "Governing board of the agreement" means the governing board of the
404 agreement that is:

405 (a) authorized to administer the agreement; and

406 (b) established in accordance with the agreement.

407 [~~(31)~~] (32) (a) "Hearing aid" means:

408 (i) an instrument or device having an electronic component that is designed to:

409 (A) (I) improve impaired human hearing; or

410 (II) correct impaired human hearing; and

411 (B) (I) be worn in the human ear; or

412 (II) affixed behind the human ear;

413 (ii) an instrument or device that is surgically implanted into the cochlea; or

414 (iii) a telephone amplifying device.

415 (b) "Hearing aid" does not include:

416 (i) except as provided in Subsection [~~(31)~~] (32)(a)(i)(B) or [~~(31)~~] (32)(a)(ii), an
417 instrument or device having an electronic component that is designed to be worn on the body;

418 (ii) except as provided in Subsection [~~(31)~~] (32)(a)(iii), an assistive listening device or
419 system designed to be used by one individual, including:

420 (A) a personal amplifying system;

421 (B) a personal FM system;

- 422 (C) a television listening system; or
- 423 (D) a device or system similar to a device or system described in Subsections [~~(31)~~
- 424 ~~(32)~~(b)(ii)(A) through (C); or
- 425 (iii) an assistive listening device or system designed to be used by more than one
- 426 individual, including:
- 427 (A) a device or system installed in:
- 428 (I) an auditorium;
- 429 (II) a church;
- 430 (III) a conference room;
- 431 (IV) a synagogue; or
- 432 (V) a theater; or
- 433 (B) a device or system similar to a device or system described in Subsections [~~(31)~~
- 434 ~~(32)~~(b)(iii)(A)(I) through (V).
- 435 [~~(32)~~] ~~(33)~~ (a) "Hearing aid accessory" means a hearing aid:
- 436 (i) component;
- 437 (ii) attachment; or
- 438 (iii) accessory.
- 439 (b) "Hearing aid accessory" includes:
- 440 (i) a hearing aid neck loop;
- 441 (ii) a hearing aid cord;
- 442 (iii) a hearing aid ear mold;
- 443 (iv) hearing aid tubing;
- 444 (v) a hearing aid ear hook; or
- 445 (vi) a hearing aid remote control.
- 446 (c) "Hearing aid accessory" does not include:
- 447 (i) a component, attachment, or accessory designed to be used only with an:
- 448 (A) instrument or device described in Subsection [~~(31)~~] ~~(32)~~(b)(i); or
- 449 (B) assistive listening device or system described in Subsection [~~(31)~~] ~~(32)~~(b)(ii) or

450 (iii); or

451 (ii) a hearing aid battery.

452 [~~33~~] (34) "Hydroelectric energy" means water used as the sole source of energy to
453 produce electricity.

454 [~~34~~] (35) "Industrial use" means the use of natural gas, electricity, heat, coal, fuel oil,
455 or other fuels:

456 (a) in mining or extraction of minerals;

457 (b) in agricultural operations to produce an agricultural product up to the time of
458 harvest or placing the agricultural product into a storage facility, including:

459 (i) commercial greenhouses;

460 (ii) irrigation pumps;

461 (iii) farm machinery;

462 (iv) implements of husbandry as defined in Subsection 41-1a-102(23) that are not
463 registered under Title 41, Chapter 1a, Part 2, Registration; and

464 (v) other farming activities;

465 (c) in manufacturing tangible personal property at an establishment described in SIC
466 Codes 2000 to 3999 of the 1987 Standard Industrial Classification Manual of the federal
467 Executive Office of the President, Office of Management and Budget; or

468 (d) by a scrap recycler if:

469 (i) from a fixed location, the scrap recycler utilizes machinery or equipment to process
470 one or more of the following items into prepared grades of processed materials for use in new
471 products:

472 (A) iron;

473 (B) steel;

474 (C) nonferrous metal;

475 (D) paper;

476 (E) glass;

477 (F) plastic;

478 (G) textile; or
479 (H) rubber; and
480 (ii) the new products under Subsection [~~(34)~~] (35)(d)(i) would otherwise be made with
481 nonrecycled materials.

482 [~~(35)~~] (36) (a) Except as provided in Subsection [~~(35)~~] (36)(b), "installation charge"
483 means a charge for installing tangible personal property.

484 (b) Notwithstanding Subsection [~~(35)~~] (36)(a), "installation charge" does not include a
485 charge for repairs or renovations of tangible personal property.

486 [~~(36)~~] (37) (a) "Lease" or "rental" means a transfer of possession or control of tangible
487 personal property for:

- 488 (i) (A) a fixed term; or
- 489 (B) an indeterminate term; and
- 490 (ii) consideration.

491 (b) "Lease" or "rental" includes an agreement covering a motor vehicle and trailer if the
492 amount of consideration may be increased or decreased by reference to the amount realized
493 upon sale or disposition of the property as defined in Section 7701(h)(1), Internal Revenue
494 Code.

495 (c) "Lease" or "rental" does not include:

496 (i) a transfer of possession or control of property under a security agreement or
497 deferred payment plan that requires the transfer of title upon completion of the required
498 payments;

499 (ii) a transfer of possession or control of property under an agreement that requires the
500 transfer of title:

501 (A) upon completion of required payments; and

502 (B) if the payment of an option price does not exceed the greater of:

503 (I) \$100; or

504 (II) 1% of the total required payments; or

505 (iii) providing tangible personal property along with an operator for a fixed period of

506 time or an indeterminate period of time if the operator is necessary for equipment to perform as
507 designed.

508 (d) For purposes of Subsection [~~36~~] (37)(c)(iii), an operator is necessary for
509 equipment to perform as designed if the operator's duties exceed the:

- 510 (i) set-up of tangible personal property;
- 511 (ii) maintenance of tangible personal property; or
- 512 (iii) inspection of tangible personal property.

513 [~~37~~] (38) "Load and leave" means delivery to a purchaser by use of a tangible storage
514 media if the tangible storage media is not physically transferred to the purchaser.

515 [~~38~~] (39) "Local taxing jurisdiction" means a:

- 516 (a) county that is authorized to impose an agreement sales and use tax;
- 517 (b) city that is authorized to impose an agreement sales and use tax; or
- 518 (c) town that is authorized to impose an agreement sales and use tax.

519 [~~39~~] (40) "Manufactured home" is as defined in Section 58-56-3.

520 [~~40~~] (41) For purposes of Subsection 59-12-104(14), "manufacturing facility" means:

521 (a) an establishment described in SIC Codes 2000 to 3999 of the 1987 Standard

522 Industrial Classification Manual of the federal Executive Office of the President, Office of
523 Management and Budget; or

524 (b) a scrap recycler if:

525 (i) from a fixed location, the scrap recycler utilizes machinery or equipment to process
526 one or more of the following items into prepared grades of processed materials for use in new
527 products:

528 (A) iron;

529 (B) steel;

530 (C) nonferrous metal;

531 (D) paper;

532 (E) glass;

533 (F) plastic;

534 (G) textile; or
535 (H) rubber; and
536 (ii) the new products under Subsection [~~(40)~~] (41)(b)(i) would otherwise be made with
537 nonrecycled materials.

538 [~~(41)~~] (42) "Mobile home" is as defined in Section 58-56-3.

539 [~~(42)~~] (43) "Mobile telecommunications service" is as defined in the Mobile
540 Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.

541 [~~(43)~~] (44) (a) Except as provided in Subsection [~~(43)~~] (44)(c), "mobility enhancing
542 equipment" means equipment that is:

543 (i) primarily and customarily used to provide or increase the ability to move from one
544 place to another;

545 (ii) appropriate for use in a:

546 (A) home; or

547 (B) motor vehicle; and

548 (iii) not generally used by persons with normal mobility.

549 (b) "Mobility enhancing equipment" includes parts used in the repair or replacement of
550 the equipment described in Subsection [~~(43)~~] (44)(a).

551 (c) Notwithstanding Subsection [~~(43)~~] (44)(a), "mobility enhancing equipment" does
552 not include:

553 (i) a motor vehicle;

554 (ii) equipment on a motor vehicle if that equipment is normally provided by the motor
555 vehicle manufacturer;

556 (iii) durable medical equipment; or

557 (iv) a prosthetic device.

558 [~~(44)~~] (45) "Model 1 seller" means a seller that has selected a certified service provider
559 as the seller's agent to perform all of the seller's sales and use tax functions for agreement sales
560 and use taxes other than the seller's obligation under Section 59-12-107.4 to remit a tax on the
561 seller's own purchases.

562 [~~(45)~~] (46) "Model 2 seller" means a seller that:

563 (a) except as provided in Subsection [~~(45)~~] (46)(b), has selected a certified automated
564 system to perform the seller's sales tax functions for agreement sales and use taxes; and

565 (b) notwithstanding Subsection [~~(45)~~] (46)(a), retains responsibility for remitting all of
566 the sales tax:

567 (i) collected by the seller; and

568 (ii) to the appropriate local taxing jurisdiction.

569 [~~(46)~~] (47) (a) Subject to Subsection [~~(46)~~] (47)(b), "model 3 seller" means a seller that
570 has:

571 (i) sales in at least five states that are members of the agreement;

572 (ii) total annual sales revenues of at least \$500,000,000;

573 (iii) a proprietary system that calculates the amount of tax:

574 (A) for an agreement sales and use tax; and

575 (B) due to each local taxing jurisdiction; and

576 (iv) entered into a performance agreement with the governing board of the agreement.

577 (b) For purposes of Subsection [~~(46)~~] (47)(a), "model 3 seller" includes an affiliated
578 group of sellers using the same proprietary system.

579 [~~(47)~~] (48) "Modular home" means a modular unit as defined in Section 58-56-3.

580 [~~(48)~~] (49) "Motor vehicle" is as defined in Section 41-1a-102.

581 [~~(49)~~] (50) (a) "Other fuels" means products that burn independently to produce heat or
582 energy.

583 (b) "Other fuels" includes oxygen when it is used in the manufacturing of tangible
584 personal property.

585 [~~(50)~~] (51) "Pawnbroker" is as defined in Section 13-32a-102.

586 [~~(51)~~] (52) "Pawn transaction" is as defined in Section 13-32a-102.

587 [~~(52)~~] (53) (a) "Permanently attached to real property" means that for tangible personal
588 property attached to real property:

589 (i) the attachment of the tangible personal property to the real property:

590 (A) is essential to the use of the tangible personal property; and
591 (B) suggests that the tangible personal property will remain attached to the real
592 property in the same place over the useful life of the tangible personal property; or
593 (ii) if the tangible personal property is detached from the real property, the detachment
594 would:
595 (A) cause substantial damage to the tangible personal property; or
596 (B) require substantial alteration or repair of the real property to which the tangible
597 personal property is attached.
598 (b) "Permanently attached to real property" includes:
599 (i) the attachment of an accessory to the tangible personal property if the accessory is:
600 (A) essential to the operation of the tangible personal property; and
601 (B) attached only to facilitate the operation of the tangible personal property; or
602 (ii) a temporary detachment of tangible personal property from real property for a
603 repair or renovation if the repair or renovation is performed where the tangible personal
604 property and real property are located.
605 (c) "Permanently attached to real property" does not include:
606 (i) the attachment of portable or movable tangible personal property to real property if
607 that portable or movable tangible personal property is attached to real property only for:
608 (A) convenience;
609 (B) stability; or
610 (C) for an obvious temporary purpose; or
611 (ii) the detachment of tangible personal property from real property other than the
612 detachment described in Subsection [~~(52)~~] (53)(b)(ii).
613 [~~(53)~~] (54) "Person" includes any individual, firm, partnership, joint venture,
614 association, corporation, estate, trust, business trust, receiver, syndicate, this state, any county,
615 city, municipality, district, or other local governmental entity of the state, or any group or
616 combination acting as a unit.
617 [~~(54)~~] (55) "Place of primary use":

618 (a) for telephone service other than mobile telecommunications service, means the
619 street address representative of where the purchaser's use of the telephone service primarily
620 occurs, which shall be:

- 621 (i) the residential street address of the purchaser; or
- 622 (ii) the primary business street address of the purchaser; or

623 (b) for mobile telecommunications service, is as defined in the Mobile
624 Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.

625 ~~[(55)]~~ (56) "Postproduction" means an activity related to the finishing or duplication of
626 a medium described in Subsection 59-12-104~~[(60)]~~(59)(a).

627 ~~[(56)]~~ (57) (a) "Prepared food" means:

- 628 (i) food:
 - 629 (A) sold in a heated state; or
 - 630 (B) heated by a seller;
- 631 (ii) two or more food ingredients mixed or combined by the seller for sale as a single
632 item; or

633 (iii) except as provided in Subsection ~~[(56)]~~ (57)(c), food sold with an eating utensil
634 provided by the seller, including a:

- 635 (A) plate;
- 636 (B) knife;
- 637 (C) fork;
- 638 (D) spoon;
- 639 (E) glass;
- 640 (F) cup;
- 641 (G) napkin; or
- 642 (H) straw.

643 (b) "Prepared food" does not include:

- 644 (i) food that a seller only:
 - 645 (A) cuts;

- 646 (B) repackages; or
- 647 (C) pasteurizes; or
- 648 (ii) (A) the following:
- 649 (I) raw egg;
- 650 (II) raw fish;
- 651 (III) raw meat;
- 652 (IV) raw poultry; or
- 653 (V) a food containing an item described in Subsections [~~56~~] 57(b)(ii)(A)(I) through
- 654 (IV); and

655 (B) if the Food and Drug Administration recommends in Chapter 3, Part 401.11 of the
656 Food and Drug Administration's Food Code that a consumer cook the items described in
657 Subsection [~~56~~] 57(b)(ii)(A) to prevent food borne illness.

658 (c) Notwithstanding Subsection [~~56~~] 57(a)(iii), an eating utensil provided by the
659 seller does not include the following used to transport the food:

- 660 (i) a container; or
- 661 (ii) packaging.

662 [~~57~~] 58 "Prescription" means an order, formula, or recipe that is issued:

- 663 (a) (i) orally;
- 664 (ii) in writing;
- 665 (iii) electronically; or
- 666 (iv) by any other manner of transmission; and
- 667 (b) by a licensed practitioner authorized by the laws of a state.

668 [~~58~~] 59 (a) Except as provided in Subsection [~~58~~] 59(b)(ii) or (iii), "prewritten
669 computer software" means computer software that is not designed and developed:

- 670 (i) by the author or other creator of the computer software; and
- 671 (ii) to the specifications of a specific purchaser.
- 672 (b) "Prewritten computer software" includes:
- 673 (i) a prewritten upgrade to computer software if the prewritten upgrade to the computer

674 software is not designed and developed:

675 (A) by the author or other creator of the computer software; and

676 (B) to the specifications of a specific purchaser;

677 (ii) notwithstanding Subsection [~~58~~] (59)(a), computer software designed and

678 developed by the author or other creator of the computer software to the specifications of a

679 specific purchaser if the computer software is sold to a person other than the purchaser; or

680 (iii) notwithstanding Subsection [~~58~~] (59)(a) and except as provided in Subsection

681 [~~58~~] (59)(c), prewritten computer software or a prewritten portion of prewritten computer

682 software:

683 (A) that is modified or enhanced to any degree; and

684 (B) if the modification or enhancement described in Subsection [~~58~~] (59)(b)(iii)(A) is

685 designed and developed to the specifications of a specific purchaser.

686 (c) Notwithstanding Subsection [~~58~~] (59)(b)(iii), "prewritten computer software"

687 does not include a modification or enhancement described in Subsection [~~58~~] (59)(b)(iii) if

688 the charges for the modification or enhancement are:

689 (i) reasonable; and

690 (ii) separately stated on the invoice or other statement of price provided to the

691 purchaser.

692 [~~59~~] (60) (a) "Prosthetic device" means a device that is worn on or in the body to:

693 (i) artificially replace a missing portion of the body;

694 (ii) prevent or correct a physical deformity or physical malfunction; or

695 (iii) support a weak or deformed portion of the body.

696 (b) "Prosthetic device" includes:

697 (i) parts used in the repairs or renovation of a prosthetic device; or

698 (ii) replacement parts for a prosthetic device.

699 (c) "Prosthetic device" does not include:

700 (i) corrective eyeglasses;

701 (ii) contact lenses;

702 (iii) hearing aids; or
703 (iv) dental prostheses.
704 [~~(60)~~] (61) (a) "Protective equipment" means an item:
705 (i) for human wear; and
706 (ii) that is:
707 (A) designed as protection:
708 (I) to the wearer against injury or disease; or
709 (II) against damage or injury of other persons or property; and
710 (B) not suitable for general use.
711 (b) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
712 commission shall make rules:
713 (i) listing the items that constitute "protective equipment"; and
714 (ii) that are consistent with the list of items that constitute "protective equipment"
715 under the agreement.
716 [~~(61)~~] (62) (a) "Purchase price" and "sales price" mean the total amount of
717 consideration:
718 (i) valued in money; and
719 (ii) for which tangible personal property or services are:
720 (A) sold;
721 (B) leased; or
722 (C) rented.
723 (b) "Purchase price" and "sales price" include:
724 (i) the seller's cost of the tangible personal property or services sold;
725 (ii) expenses of the seller, including:
726 (A) the cost of materials used;
727 (B) a labor cost;
728 (C) a service cost;
729 (D) interest;

- 730 (E) a loss;
- 731 (F) the cost of transportation to the seller; or
- 732 (G) a tax imposed on the seller; or
- 733 (iii) a charge by the seller for any service necessary to complete the sale.
- 734 (c) "Purchase price" and "sales price" do not include:
- 735 (i) a discount:
- 736 (A) in a form including:
- 737 (I) cash;
- 738 (II) term; or
- 739 (III) coupon;
- 740 (B) that is allowed by a seller;
- 741 (C) taken by a purchaser on a sale; and
- 742 (D) that is not reimbursed by a third party; or
- 743 (ii) the following if separately stated on an invoice, bill of sale, or similar document
- 744 provided to the purchaser:
- 745 (A) the amount of a trade-in;
- 746 (B) the following from credit extended on the sale of tangible personal property or
- 747 services:
- 748 (I) interest charges;
- 749 (II) financing charges; or
- 750 (III) carrying charges;
- 751 (C) a tax or fee legally imposed directly on the consumer;
- 752 (D) a delivery charge; or
- 753 (E) an installation charge.
- 754 [~~(62)~~] (63) "Purchaser" means a person to whom:
- 755 (a) a sale of tangible personal property is made; or
- 756 (b) a service is furnished.
- 757 [~~(63)~~] (64) "Regularly rented" means:

758 (a) rented to a guest for value three or more times during a calendar year; or
759 (b) advertised or held out to the public as a place that is regularly rented to guests for
760 value.

761 [~~(64)~~] (65) "Renewable energy" means:

- 762 (a) biomass energy;
- 763 (b) hydroelectric energy;
- 764 (c) geothermal energy;
- 765 (d) solar energy; or
- 766 (e) wind energy.

767 [~~(65)~~] (66) (a) "Renewable energy production facility" means a facility that:

- 768 (i) uses renewable energy to produce electricity; and
 - 769 (ii) has a production capacity of 20 kilowatts or greater.
- 770 (b) A facility is a renewable energy production facility regardless of whether the
771 facility is:

- 772 (i) connected to an electric grid; or
- 773 (ii) located on the premises of an electricity consumer.

774 [~~(66)~~] (67) "Rental" is as defined in Subsection [~~(36)~~] (37).

775 [~~(67)~~] (68) "Repairs or renovations of tangible personal property" means:

- 776 (a) a repair or renovation of tangible personal property that is not permanently attached
777 to real property; or
- 778 (b) attaching tangible personal property to other tangible personal property if the other
779 tangible personal property to which the tangible personal property is attached is not
780 permanently attached to real property.

781 [~~(68)~~] (69) "Residential use" means the use in or around a home, apartment building,
782 sleeping quarters, and similar facilities or accommodations.

783 [~~(69)~~] (70) "Retail sale" or "sale at retail" means a sale, lease, or rental for a purpose
784 other than:

- 785 (a) resale;

786 (b) sublease; or

787 (c) subrent.

788 ~~[(70)]~~ (71) (a) "Retailer" means any person engaged in a regularly organized business
789 in tangible personal property or any other taxable transaction under Subsection 59-12-103(1),
790 and who is selling to the user or consumer and not for resale.

791 (b) "Retailer" includes commission merchants, auctioneers, and any person regularly
792 engaged in the business of selling to users or consumers within the state.

793 ~~[(71)]~~ (72) (a) "Sale" means any transfer of title, exchange, or barter, conditional or
794 otherwise, in any manner, of tangible personal property or any other taxable transaction under
795 Subsection 59-12-103(1), for consideration.

796 (b) "Sale" includes:

797 (i) installment and credit sales;

798 (ii) any closed transaction constituting a sale;

799 (iii) any sale of electrical energy, gas, services, or entertainment taxable under this
800 chapter;

801 (iv) any transaction if the possession of property is transferred but the seller retains the
802 title as security for the payment of the price; and

803 (v) any transaction under which right to possession, operation, or use of any article of
804 tangible personal property is granted under a lease or contract and the transfer of possession
805 would be taxable if an outright sale were made.

806 ~~[(72)]~~ (73) "Sale at retail" is as defined in Subsection ~~[(69)]~~ (70).

807 ~~[(73)]~~ (74) "Sale-leaseback transaction" means a transaction by which title to tangible
808 personal property that is subject to a tax under this chapter is transferred:

809 (a) by a purchaser-lessee;

810 (b) to a lessor;

811 (c) for consideration; and

812 (d) if:

813 (i) the purchaser-lessee paid sales and use tax on the purchaser-lessee's initial purchase

814 of the tangible personal property;

815 (ii) the sale of the tangible personal property to the lessor is intended as a form of

816 financing:

817 (A) for the property; and

818 (B) to the purchaser-lessee; and

819 (iii) in accordance with generally accepted accounting principles, the purchaser-lessee

820 is required to:

821 (A) capitalize the property for financial reporting purposes; and

822 (B) account for the lease payments as payments made under a financing arrangement.

823 [~~(74)~~] (75) "Sales price" is as defined in Subsection [~~(61)~~] (62).

824 [~~(75)~~] (76) (a) "Sales relating to schools" means the following sales by, amounts paid

825 to, or amounts charged by a school:

826 (i) sales that are directly related to the school's educational functions or activities

827 including:

828 (A) the sale of:

829 (I) textbooks;

830 (II) textbook fees;

831 (III) laboratory fees;

832 (IV) laboratory supplies; or

833 (V) safety equipment;

834 (B) the sale of a uniform, protective equipment, or sports or recreational equipment

835 that:

836 (I) a student is specifically required to wear as a condition of participation in a

837 school-related event or school-related activity; and

838 (II) is not readily adaptable to general or continued usage to the extent that it takes the

839 place of ordinary clothing;

840 (C) sales of the following if the net or gross revenues generated by the sales are

841 deposited into a school district fund or school fund dedicated to school meals:

- 842 (I) food and food ingredients; or
- 843 (II) prepared food; or
- 844 (D) transportation charges for official school activities; or
- 845 (ii) amounts paid to or amounts charged by a school for admission to a school-related
- 846 event or school-related activity.
- 847 (b) "Sales relating to schools" does not include:
- 848 (i) bookstore sales of items that are not educational materials or supplies;
- 849 (ii) except as provided in Subsection [~~75~~] (76)(a)(i)(B):
- 850 (A) clothing;
- 851 (B) clothing accessories or equipment;
- 852 (C) protective equipment; or
- 853 (D) sports or recreational equipment; or
- 854 (iii) amounts paid to or amounts charged by a school for admission to a school-related
- 855 event or school-related activity if the amounts paid or charged are passed through to a person:
- 856 (A) other than a:
- 857 (I) school;
- 858 (II) nonprofit organization authorized by a school board or a governing body of a
- 859 private school to organize and direct a competitive secondary school activity; or
- 860 (III) nonprofit association authorized by a school board or a governing body of a
- 861 private school to organize and direct a competitive secondary school activity; and
- 862 (B) that is required to collect sales and use taxes under this chapter.
- 863 (c) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
- 864 commission may make rules defining the term "passed through."
- 865 [~~76~~] (77) For purposes of this section and Section 59-12-104, "school" means:
- 866 (a) an elementary school or a secondary school that:
- 867 (i) is a:
- 868 (A) public school; or
- 869 (B) private school; and

- 870 (ii) provides instruction for one or more grades kindergarten through 12; or
- 871 (b) a public school district.
- 872 [~~(77)~~] (78) "Seller" means a person that makes a sale, lease, or rental of:
- 873 (a) tangible personal property; or
- 874 (b) a service.
- 875 [~~(78)~~] (79) (a) "Semiconductor fabricating or processing materials" means tangible
- 876 personal property:
- 877 (i) used primarily in the process of:
- 878 (A) (I) manufacturing a semiconductor; or
- 879 (II) fabricating a semiconductor; or
- 880 (B) maintaining an environment suitable for a semiconductor; or
- 881 (ii) consumed primarily in the process of:
- 882 (A) (I) manufacturing a semiconductor; or
- 883 (II) fabricating a semiconductor; or
- 884 (B) maintaining an environment suitable for a semiconductor.
- 885 (b) "Semiconductor fabricating or processing materials" includes:
- 886 (i) parts used in the repairs or renovations of tangible personal property described in
- 887 Subsection [~~(78)~~] (79)(a); or
- 888 (ii) a chemical, catalyst, or other material used to:
- 889 (A) produce or induce in a semiconductor a:
- 890 (I) chemical change; or
- 891 (II) physical change;
- 892 (B) remove impurities from a semiconductor; or
- 893 (C) improve the marketable condition of a semiconductor.
- 894 [~~(79)~~] (80) "Senior citizen center" means a facility having the primary purpose of
- 895 providing services to the aged as defined in Section 62A-3-101.
- 896 [~~(80)~~] (81) "Simplified electronic return" means the electronic return:
- 897 (a) described in Section 318(C) of the agreement; and

898 (b) approved by the governing board of the agreement.

899 [~~(81)~~] (82) "Solar energy" means the sun used as the sole source of energy for
900 producing electricity.

901 [~~(82)~~] (83) (a) "Sports or recreational equipment" means an item:

902 (i) designed for human use; and

903 (ii) that is:

904 (A) worn in conjunction with:

905 (I) an athletic activity; or

906 (II) a recreational activity; and

907 (B) not suitable for general use.

908 (b) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
909 commission shall make rules:

910 (i) listing the items that constitute "sports or recreational equipment"; and

911 (ii) that are consistent with the list of items that constitute "sports or recreational
912 equipment" under the agreement.

913 [~~(83)~~] (84) "State" means the state of Utah, its departments, and agencies.

914 [~~(84)~~] (85) "Storage" means any keeping or retention of tangible personal property or
915 any other taxable transaction under Subsection 59-12-103(1), in this state for any purpose
916 except sale in the regular course of business.

917 [~~(85)~~] (86) (a) "Tangible personal property" means personal property that:

918 (i) may be:

919 (A) seen;

920 (B) weighed;

921 (C) measured;

922 (D) felt; or

923 (E) touched; or

924 (ii) is in any manner perceptible to the senses.

925 (b) "Tangible personal property" includes:

- 926 (i) electricity;
- 927 (ii) water;
- 928 (iii) gas;
- 929 (iv) steam; or
- 930 (v) prewritten computer software.
- 931 ~~[(86)]~~ (87) (a) "Telephone service" means a two-way transmission:
- 932 (i) by:
- 933 (A) wire;
- 934 (B) radio;
- 935 (C) lightwave; or
- 936 (D) other electromagnetic means; and
- 937 (ii) of one or more of the following:
- 938 (A) a sign;
- 939 (B) a signal;
- 940 (C) writing;
- 941 (D) an image;
- 942 (E) sound;
- 943 (F) a message;
- 944 (G) data; or
- 945 (H) other information of any nature.
- 946 (b) "Telephone service" includes:
- 947 (i) mobile telecommunications service;
- 948 (ii) private communications service; or
- 949 (iii) automated digital telephone answering service.
- 950 (c) "Telephone service" does not include a service or a transaction that a state or a
- 951 political subdivision of a state is prohibited from taxing as of July 1, 2001, under the Internet
- 952 Tax Freedom Act, Pub. L. No. 105-277.
- 953 ~~[(87)]~~ (88) Notwithstanding where a call is billed or paid, "telephone service address"

954 means:

955 (a) if the location described in this Subsection [~~(87)~~] (88)(a) is known, the location of
956 the telephone service equipment:

- 957 (i) to which a call is charged; and
- 958 (ii) from which the call originates or terminates;

959 (b) if the location described in Subsection [~~(87)~~] (88)(a) is not known but the location
960 described in this Subsection [~~(87)~~] (88)(b) is known, the location of the origination point of the
961 signal of the telephone service first identified by:

- 962 (i) the telecommunications system of the seller; or
- 963 (ii) if the system used to transport the signal is not that of the seller, information
964 received by the seller from its service provider; or

965 (c) if the locations described in Subsection [~~(87)~~] (88)(a) or (b) are not known, the
966 location of a purchaser's primary place of use.

967 [~~(88)~~] (89) (a) "Telephone service provider" means a person that:

- 968 (i) owns, controls, operates, or manages a telephone service; and
- 969 (ii) engages in an activity described in Subsection [~~(88)~~] (89)(a)(i) for the shared use
970 with or resale to any person of the telephone service.

971 (b) A person described in Subsection [~~(88)~~] (89)(a) is a telephone service provider
972 whether or not the Public Service Commission of Utah regulates:

- 973 (i) that person; or
- 974 (ii) the telephone service that the person owns, controls, operates, or manages.

975 [~~(89)~~] (90) "Tobacco" means:

- 976 (a) a cigarette;
- 977 (b) a cigar;
- 978 (c) chewing tobacco;
- 979 (d) pipe tobacco; or
- 980 (e) any other item that contains tobacco.

981 (91) "Unassisted amusement device" means an amusement device, skill device, or ride

982 device that is started and stopped by the purchaser or renter of the right to use or operate the
983 amusement device, skill device, or ride device.

984 [~~90~~] (92) (a) "Use" means the exercise of any right or power over tangible personal
985 property under Subsection 59-12-103(1), incident to the ownership or the leasing of that
986 property, item, or service.

987 (b) "Use" does not include the sale, display, demonstration, or trial of that property in
988 the regular course of business and held for resale.

989 [~~91~~] (93) (a) Subject to Subsection [~~91~~] (93)(b), "vehicle" means the following that
990 are required to be titled, registered, or titled and registered:

- 991 (i) an aircraft as defined in Section 72-10-102;
- 992 (ii) a vehicle as defined in Section 41-1a-102;
- 993 (iii) an off-highway vehicle as defined in Section 41-22-2; or
- 994 (iv) a vessel as defined in Section 41-1a-102.

995 (b) For purposes of Subsection 59-12-104(35) only, "vehicle" includes:

- 996 (i) a vehicle described in Subsection [~~91~~] (93)(a); or
- 997 (ii) (A) a locomotive;
- 998 (B) a freight car;
- 999 (C) railroad work equipment; or
- 1000 (D) other railroad rolling stock.

1001 [~~92~~] (94) "Vehicle dealer" means a person engaged in the business of buying, selling,
1002 or exchanging a vehicle as defined in Subsection [~~91~~] (93).

1003 [~~93~~] (95) (a) Except as provided in Subsection [~~93~~] (95)(b), "waste energy facility"
1004 means a facility that generates electricity:

- 1005 (i) using as the primary source of energy waste materials that would be placed in a
1006 landfill or refuse pit if it were not used to generate electricity, including:
- 1007 (A) tires;
- 1008 (B) waste coal; or
- 1009 (C) oil shale; and

- 1010 (ii) in amounts greater than actually required for the operation of the facility.
- 1011 (b) "Waste energy facility" does not include a facility that incinerates:
- 1012 (i) municipal solid waste;
- 1013 (ii) hospital waste as defined in 40 C.F.R. 60.51c; or
- 1014 (iii) medical/infectious waste as defined in 40 C.F.R. 60.51c.
- 1015 [~~94~~] (96) "Watercraft" means a vessel as defined in Section 73-18-2.
- 1016 [~~95~~] (97) "Wind energy" means wind used as the sole source of energy to produce
- 1017 electricity.

1018 [~~96~~] (98) "ZIP Code" means a Zoning Improvement Plan Code assigned to a

1019 geographic location by the United States Postal Service.

1020 Section 3. Section **59-12-103 (Effective 07/01/06)** is amended to read:

1021 **59-12-103 (Effective 07/01/06). Sales and use tax base -- Rates -- Effective dates --**

1022 **Use of sales and use tax revenues.**

1023 (1) A tax is imposed on the purchaser as provided in this part for amounts paid or

1024 charged for the following transactions:

- 1025 (a) retail sales of tangible personal property made within the state;
- 1026 (b) amounts paid:
 - 1027 (i) (A) to a common carrier; or
 - 1028 (B) whether the following are municipally or privately owned, to a:
 - 1029 (I) telephone service provider; or
 - 1030 (II) telegraph corporation as defined in Section 54-2-1; and
 - 1031 (ii) for:
 - 1032 (A) all transportation;
 - 1033 (B) telephone service, other than mobile telecommunications service, that originates
 - 1034 and terminates within the boundaries of this state;
 - 1035 (C) mobile telecommunications service that originates and terminates within the
 - 1036 boundaries of one state only to the extent permitted by the Mobile Telecommunications
 - 1037 Sourcing Act, 4 U.S.C. Sec. 116 et seq.; or

- 1038 (D) telegraph service;
- 1039 (c) sales of the following for commercial use:
- 1040 (i) gas;
- 1041 (ii) electricity;
- 1042 (iii) heat;
- 1043 (iv) coal;
- 1044 (v) fuel oil; or
- 1045 (vi) other fuels;
- 1046 (d) sales of the following for residential use:
- 1047 (i) gas;
- 1048 (ii) electricity;
- 1049 (iii) heat;
- 1050 (iv) coal;
- 1051 (v) fuel oil; or
- 1052 (vi) other fuels;
- 1053 (e) sales of prepared food;
- 1054 (f) except as provided in Section 59-12-104, amounts paid or charged as admission or
- 1055 user fees for theaters, movies, operas, museums, planetariums, shows of any type or nature,
- 1056 exhibitions, concerts, carnivals, amusement parks, amusement rides, circuses, menageries,
- 1057 fairs, races, contests, sporting events, dances, boxing matches, wrestling matches, closed circuit
- 1058 television broadcasts, billiard parlors, pool parlors, bowling lanes, golf, miniature golf, golf
- 1059 driving ranges, batting cages, skating rinks, ski lifts, ski runs, ski trails, snowmobile trails,
- 1060 tennis courts, swimming pools, water slides, river runs, jeep tours, boat tours, scenic cruises,
- 1061 horseback rides, sports activities, or any other amusement, entertainment, recreation,
- 1062 exhibition, cultural, or athletic activity;
- 1063 (g) amounts paid or charged for services for repairs or renovations of tangible personal
- 1064 property, unless Section 59-12-104 provides for an exemption from sales and use tax for:
- 1065 (i) the tangible personal property; and

1066 (ii) parts used in the repairs or renovations of the tangible personal property described
1067 in Subsection (1)(g)(i), whether or not any parts are actually used in the repairs or renovations
1068 of that tangible personal property;

1069 (h) except as provided in Subsection 59-12-104(7), amounts paid or charged for
1070 assisted cleaning or washing of tangible personal property;

1071 (i) amounts paid or charged for tourist home, hotel, motel, or trailer court
1072 accommodations and services that are regularly rented for less than 30 consecutive days;

1073 (j) amounts paid or charged for laundry or dry cleaning services;

1074 (k) amounts paid or charged for leases or rentals of tangible personal property if within
1075 this state the tangible personal property is:

1076 (i) stored;

1077 (ii) used; or

1078 (iii) otherwise consumed;

1079 (l) amounts paid or charged for tangible personal property if within this state the
1080 tangible personal property is:

1081 (i) stored;

1082 (ii) used; or

1083 (iii) consumed; and

1084 (m) amounts paid or charged for prepaid telephone calling cards.

1085 (2) (a) Except as provided in Subsection (2)(b), beginning on July 1, 2001, a state tax
1086 and a local tax is imposed on a transaction described in Subsection (1) equal to the sum of:

1087 (i) a state tax imposed on the transaction at a rate of 4.75%; and

1088 (ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the
1089 transaction under this chapter other than this part.

1090 (b) Notwithstanding Subsection (2)(a), beginning on July 1, 2001, a state tax and a
1091 local tax is imposed on a transaction described in Subsection (1)(d) equal to the sum of:

1092 (i) a state tax imposed on the transaction at a rate of 2%; and

1093 (ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the

1094 transaction under this chapter other than this part.

1095 (c) Subject to Subsections (2)(d) and (e), a tax rate repeal or tax rate change for a tax
1096 rate imposed under the following shall take effect on the first day of a calendar quarter:

1097 (i) Subsection (2)(a)(i); or

1098 (ii) Subsection (2)(b)(i).

1099 (d) (i) For a transaction described in Subsection (2)(d)(iii), a tax rate increase shall take
1100 effect on the first day of the first billing period:

1101 (A) that begins after the effective date of the tax rate increase; and

1102 (B) if the billing period for the transaction begins before the effective date of a tax rate
1103 increase imposed under:

1104 (I) Subsection (2)(a)(i); or

1105 (II) Subsection (2)(b)(i).

1106 (ii) For a transaction described in Subsection (2)(d)(iii), the repeal of a tax or a tax rate
1107 decrease shall take effect on the first day of the last billing period:

1108 (A) that began before the effective date of the repeal of the tax or the tax rate decrease;

1109 and

1110 (B) if the billing period for the transaction begins before the effective date of the repeal
1111 of the tax or the tax rate decrease imposed under:

1112 (I) Subsection (2)(a)(i); or

1113 (II) Subsection (2)(b)(i).

1114 (iii) Subsections (2)(d)(i) and (ii) apply to transactions subject to a tax under:

1115 (A) Subsection (1)(b);

1116 (B) Subsection (1)(c);

1117 (C) Subsection (1)(d);

1118 (D) Subsection (1)(e);

1119 (E) Subsection (1)(f);

1120 (F) Subsection (1)(g);

1121 (G) Subsection (1)(h);

1122 (H) Subsection (1)(i);
1123 (I) Subsection (1)(j); or
1124 (J) Subsection (1)(k).
1125 (e) (i) If a tax due under Subsection (2)(a)(i) on a catalogue sale is computed on the
1126 basis of sales and use tax rates published in the catalogue, a tax rate repeal or change in a tax
1127 rate imposed under Subsection (2)(a)(i) takes effect:
1128 (A) on the first day of a calendar quarter; and
1129 (B) beginning 60 days after the effective date of the tax rate repeal or tax rate change
1130 under Subsection (2)(a)(i).
1131 (ii) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act,
1132 the commission may by rule define the term "catalogue sale."
1133 (3) (a) Except as provided in Subsections (4) through (7), the following state taxes
1134 shall be deposited into the General Fund:
1135 (i) the tax imposed by Subsection (2)(a)(i); or
1136 (ii) the tax imposed by Subsection (2)(b)(i).
1137 (b) The local taxes described in Subsections (2)(a)(ii) and (2)(b)(ii) shall be distributed
1138 to a county, city, or town as provided in this chapter.
1139 (4) (a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1,
1140 2003, the lesser of the following amounts shall be used as provided in Subsections (4)(b)
1141 through (g):
1142 (i) for taxes listed under Subsection (3)(a), the amount of tax revenue generated:
1143 (A) by a 1/16% tax rate on the transactions described in Subsection (1); and
1144 (B) for the fiscal year; or
1145 (ii) \$17,500,000.
1146 (b) (i) For a fiscal year beginning on or after July 1, 2003, 14% of the amount
1147 described in Subsection (4)(a) shall be transferred each year as dedicated credits to the
1148 Department of Natural Resources to:
1149 (A) implement the measures described in Subsections 63-34-14(4)(a) through (d) to

1150 protect sensitive plant and animal species; or

1151 (B) award grants, up to the amount authorized by the Legislature in an appropriations
1152 act, to political subdivisions of the state to implement the measures described in Subsections
1153 63-34-14(4)(a) through (d) to protect sensitive plant and animal species.

1154 (ii) Money transferred to the Department of Natural Resources under Subsection
1155 (4)(b)(i) may not be used to assist the United States Fish and Wildlife Service or any other
1156 person to list or attempt to have listed a species as threatened or endangered under the
1157 Endangered Species Act of 1973, 16 U.S.C. Sec. 1531 et seq.

1158 (iii) At the end of each fiscal year:

1159 (A) 50% of any unexpended dedicated credits shall lapse to the Water Resources
1160 Conservation and Development Fund created in Section 73-10-24;

1161 (B) 25% of any unexpended dedicated credits shall lapse to the Utah Wastewater Loan
1162 Program Subaccount created in Section 73-10c-5; and

1163 (C) 25% of any unexpended dedicated credits shall lapse to the Drinking Water Loan
1164 Program Subaccount created in Section 73-10c-5.

1165 (c) For a fiscal year beginning on or after July 1, 2003, 3% of the amount described in
1166 Subsection (4)(b)(i) shall be deposited each year in the Agriculture Resource Development
1167 Fund created in Section 4-18-6.

1168 (d) (i) For a fiscal year beginning on or after July 1, 2003, 1% of the amount described
1169 in Subsection (4)(a) shall be transferred each year as dedicated credits to the Division of Water
1170 Rights to cover the costs incurred in hiring legal and technical staff for the adjudication of
1171 water rights.

1172 (ii) At the end of each fiscal year:

1173 (A) 50% of any unexpended dedicated credits shall lapse to the Water Resources
1174 Conservation and Development Fund created in Section 73-10-24;

1175 (B) 25% of any unexpended dedicated credits shall lapse to the Utah Wastewater Loan
1176 Program Subaccount created in Section 73-10c-5; and

1177 (C) 25% of any unexpended dedicated credits shall lapse to the Drinking Water Loan

1178 Program Subaccount created in Section 73-10c-5.

1179 (e) (i) For a fiscal year beginning on or after July 1, 2003, 41% of the amount described
1180 in Subsection (4)(a) shall be deposited in the Water Resources Conservation and Development
1181 Fund created in Section 73-10-24 for use by the Division of Water Resources.

1182 (ii) In addition to the uses allowed of the Water Resources Conservation and
1183 Development Fund under Section 73-10-24, the Water Resources Conservation and
1184 Development Fund may also be used to:

1185 (A) provide a portion of the local cost share, not to exceed in any fiscal year 50% of the
1186 funds made available to the Division of Water Resources under this section, of potential project
1187 features of the Central Utah Project;

1188 (B) conduct hydrologic and geotechnical investigations by the Department of Natural
1189 Resources in a cooperative effort with other state, federal, or local entities, for the purpose of
1190 quantifying surface and ground water resources and describing the hydrologic systems of an
1191 area in sufficient detail so as to enable local and state resource managers to plan for and
1192 accommodate growth in water use without jeopardizing the resource;

1193 (C) fund state required dam safety improvements; and

1194 (D) protect the state's interest in interstate water compact allocations, including the
1195 hiring of technical and legal staff.

1196 (f) For a fiscal year beginning on or after July 1, 2003, 20.5% of the amount described
1197 in Subsection (4)(a) shall be deposited in the Utah Wastewater Loan Program Subaccount
1198 created in Section 73-10c-5 for use by the Water Quality Board to fund wastewater projects.

1199 (g) For a fiscal year beginning on or after July 1, 2003, 20.5% of the amount described
1200 in Subsection (4)(a) shall be deposited in the Drinking Water Loan Program Subaccount
1201 created in Section 73-10c-5 for use by the Division of Drinking Water to:

1202 (i) provide for the installation and repair of collection, treatment, storage, and
1203 distribution facilities for any public water system, as defined in Section 19-4-102;

1204 (ii) develop underground sources of water, including springs and wells; and

1205 (iii) develop surface water sources.

1206 (5) (a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1,
1207 2003, the lesser of the following amounts shall be used as provided in Subsections (5)(b)
1208 through (d):

1209 (i) for taxes listed under Subsection (3)(a), the amount of tax revenue generated:

1210 (A) by a 1/16% tax rate on the transactions described in Subsection (1); and

1211 (B) for the fiscal year; or

1212 (ii) \$18,743,000.

1213 (b) (i) For a fiscal year beginning on or after July 1, 2003, 3% of the amount described
1214 in Subsection (5)(a) shall be deposited each year in the Transportation Corridor Preservation
1215 Revolving Loan Fund created in Section 72-2-117.

1216 (ii) At least 50% of the money deposited in the Transportation Corridor Preservation
1217 Revolving Loan Fund under Subsection (5)(b)(i) shall be used to fund loan applications made
1218 by the Department of Transportation at the request of local governments.

1219 (c) For a fiscal year beginning on or after July 1, 2003, 3% of the amount described in
1220 Subsection (5)(a) shall be transferred each year as nonlapsing dedicated credits to the
1221 Department of Transportation for the State Park Access Highways Improvement Program
1222 created in Section 72-3-207.

1223 (d) For a fiscal year beginning on or after July 1, 2003, 94% of the amount described in
1224 Subsection (5)(a) shall be deposited in the class B and class C roads account to be expended as
1225 provided in Title 72, Chapter 2, Transportation Finances Act, for the use of class B and C
1226 roads.

1227 (6) (a) Notwithstanding Subsection (3)(a) and until Subsection (6)(b) applies,
1228 beginning on January 1, 2000, the Division of Finance shall deposit into the Centennial
1229 Highway Fund Restricted Account created in Section 72-2-118 a portion of the taxes listed
1230 under Subsection (3)(a) equal to the revenues generated by a 1/64% tax rate on the taxable
1231 transactions under Subsection (1).

1232 (b) Notwithstanding Subsection (3)(a), when the highway general obligation bonds
1233 have been paid off and the highway projects completed that are intended to be paid from

1234 revenues deposited in the Centennial Highway Fund Restricted Account as determined by the
1235 Executive Appropriations Committee under Subsection 72-2-118(6)(d), the Division of
1236 Finance shall deposit into the Transportation Investment Fund of 2005 created by Section
1237 72-2-124 a portion of the taxes listed under Subsection (3)(a) equal to the revenues generated
1238 by a 1/64% tax rate on the taxable transactions under Subsection (1).

1239 (7) (a) Notwithstanding Subsection (3)(a), for fiscal years beginning on or after fiscal
1240 year 2004-05, the commission shall each year on or before the September 30 immediately
1241 following the last day of the fiscal year deposit the difference described in Subsection (7)(b)
1242 into the Remote Sales Restricted Account created in Section 59-12-103.2 if that difference is
1243 greater than \$0.

1244 (b) The difference described in Subsection (7)(a) is equal to the difference between:

1245 (i) the total amount of the following revenues the commission received from sellers
1246 collecting a tax in accordance with Subsection 59-12-107(1)(b) for the fiscal year immediately
1247 preceding the September 30 described in Subsection (7)(a):

1248 (A) revenues under Subsection (2)(a)(i); and

1249 (B) revenues under Subsection (2)(b)(i); and

1250 (ii) \$7,279,673.

1251 (8) (a) Notwithstanding Subsection (3)(a), in addition to the amount deposited in
1252 Subsection (6)(a), and until Subsection (8)(b) applies, for a fiscal year beginning on or after
1253 July 1, 2005, the Division of Finance shall deposit \$59,594,700 of the revenues generated by
1254 the taxes described in Subsections (2)(a)(i) and (2)(b)(i) into the Centennial Highway Fund
1255 Restricted Account created by Section 72-2-118.

1256 (b) Notwithstanding Subsection (3)(a) and in addition to the amounts deposited under
1257 Subsection (6)(b), when the highway general obligation bonds have been paid off and the
1258 highway projects completed that are intended to be paid from revenues deposited in the
1259 Centennial Highway Fund Restricted Account as determined by the Executive Appropriations
1260 Committee under Subsection 72-2-118(6)(d), the Division of Finance shall deposit
1261 \$59,594,700 of the revenues generated by the taxes described in Subsections (2)(a)(i) and

1262 (2)(b)(i) into the Transportation Investment Fund of 2005 created by Section 72-2-124.

1263 Section 4. Section **59-12-104** is amended to read:

1264 **59-12-104. Exemptions.**

1265 The following sales and uses are exempt from the taxes imposed by this chapter:

1266 (1) sales of aviation fuel, motor fuel, and special fuel subject to a Utah state excise tax
1267 under Chapter 13, Motor and Special Fuel Tax Act;

1268 (2) sales to the state, its institutions, and its political subdivisions; however, this
1269 exemption does not apply to sales of:

1270 (a) construction materials except:

1271 (i) construction materials purchased by or on behalf of institutions of the public
1272 education system as defined in Utah Constitution Article X, Section 2, provided the
1273 construction materials are clearly identified and segregated and installed or converted to real
1274 property which is owned by institutions of the public education system; and

1275 (ii) construction materials purchased by the state, its institutions, or its political
1276 subdivisions which are installed or converted to real property by employees of the state, its
1277 institutions, or its political subdivisions; or

1278 (b) tangible personal property in connection with the construction, operation,
1279 maintenance, repair, or replacement of a project, as defined in Section 11-13-103, or facilities
1280 providing additional project capacity, as defined in Section 11-13-103;

1281 (3) (a) sales of an item described in Subsection (3)(b) from a vending machine if:

1282 (i) the proceeds of each sale do not exceed \$1; and

1283 (ii) the seller or operator of the vending machine reports an amount equal to 150% of
1284 the cost of the item described in Subsection (3)(b) as goods consumed; and

1285 (b) Subsection (3)(a) applies to:

1286 (i) food and food ingredients; or

1287 (ii) prepared food;

1288 (4) sales of the following to a commercial airline carrier for in-flight consumption:

1289 (a) food and food ingredients;

- 1290 (b) prepared food; or
- 1291 (c) services related to Subsection (4)(a) or (b);
- 1292 (5) sales of parts and equipment for installation in aircraft operated by common carriers
- 1293 in interstate or foreign commerce;
- 1294 (6) sales of commercials, motion picture films, prerecorded audio program tapes or
- 1295 records, and prerecorded video tapes by a producer, distributor, or studio to a motion picture
- 1296 exhibitor, distributor, or commercial television or radio broadcaster;
- 1297 (7) (a) subject to Subsection (7)(b), sales of cleaning or washing of tangible personal
- 1298 property [by a coin-operated laundry or dry cleaning machine] if the cleaning or washing of the
- 1299 tangible personal property is not assisted cleaning or washing of tangible personal property;
- 1300 (b) if a seller that sells at the same business location assisted cleaning or washing of
- 1301 tangible personal property and cleaning or washing of tangible personal property that is not
- 1302 assisted cleaning or washing of tangible personal property, the exemption described in
- 1303 Subsection (7)(a) applies if the seller separately accounts for the sales of the assisted cleaning
- 1304 or washing of the tangible personal property; and
- 1305 (c) for purposes of Subsection (7)(b) and in accordance with Title 63, Chapter 46a,
- 1306 Utah Administrative Rulemaking Act, the commission may make rules:
- 1307 (i) governing the circumstances under which sales are at the same business location;
- 1308 and
- 1309 (ii) establishing the procedures and requirements for a seller to separately account for
- 1310 sales of assisted cleaning or washing of tangible personal property;
- 1311 (8) sales made to or by religious or charitable institutions in the conduct of their regular
- 1312 religious or charitable functions and activities, if the requirements of Section 59-12-104.1 are
- 1313 fulfilled;
- 1314 (9) sales of vehicles of a type required to be registered under the motor vehicle laws of
- 1315 this state which are made to bona fide nonresidents of this state and are not afterwards
- 1316 registered or used in this state except as necessary to transport them to the borders of this state;
- 1317 (10) (a) amounts paid for an item described in Subsection (10)(b) if:

- 1318 (i) the item is intended for human use; and
- 1319 (ii) (A) a prescription was issued for the item; or
- 1320 (B) the item was purchased by a hospital or other medical facility; and
- 1321 (b) (i) Subsection (10)(a) applies to:
- 1322 (A) a drug;
- 1323 (B) a syringe; or
- 1324 (C) a stoma supply; and
- 1325 (ii) in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
- 1326 commission may by rule define the terms:
- 1327 (A) "syringe"; or
- 1328 (B) "stoma supply";
- 1329 (11) sales or use of property, materials, or services used in the construction of or
- 1330 incorporated in pollution control facilities allowed by Sections 19-2-123 through 19-2-127;
- 1331 (12) (a) sales of an item described in Subsection (12)(c) served by:
- 1332 (i) the following if the item described in Subsection (12)(c) is not available to the
- 1333 general public:
- 1334 (A) a church; or
- 1335 (B) a charitable institution;
- 1336 (ii) an institution of higher education if:
- 1337 (A) the item described in Subsection (12)(c) is not available to the general public; or
- 1338 (B) the item described in Subsection (12)(c) is prepaid as part of a student meal plan
- 1339 offered by the institution of higher education; or
- 1340 (b) sales of an item described in Subsection (12)(c) provided for a patient by:
- 1341 (i) a medical facility; or
- 1342 (ii) a nursing facility; and
- 1343 (c) Subsections (12)(a) and (b) apply to:
- 1344 (i) food and food ingredients;
- 1345 (ii) prepared food; or

1346 (iii) alcoholic beverages;
1347 (13) isolated or occasional sales by persons not regularly engaged in business, except
1348 the sale of vehicles or vessels required to be titled or registered under the laws of this state in
1349 which case the tax is based upon:
1350 (a) the bill of sale or other written evidence of value of the vehicle or vessel being sold;
1351 or
1352 (b) in the absence of a bill of sale or other written evidence of value, the then existing
1353 fair market value of the vehicle or vessel being sold as determined by the commission;
1354 (14) (a) the following purchases or leases by a manufacturer on or after July 1, 1995:
1355 (i) machinery and equipment:
1356 (A) used in the manufacturing process;
1357 (B) having an economic life of three or more years; and
1358 (C) used:
1359 (I) to manufacture an item sold as tangible personal property; and
1360 (II) in new or expanding operations in a manufacturing facility in the state; and
1361 (ii) subject to the provisions of Subsection (14)(b), normal operating replacements that:
1362 (A) have an economic life of three or more years;
1363 (B) are used in the manufacturing process in a manufacturing facility in the state;
1364 (C) are used to replace or adapt an existing machine to extend the normal estimated
1365 useful life of the machine; and
1366 (D) do not include repairs and maintenance;
1367 (b) the rates for the exemption under Subsection (14)(a)(ii) are as follows:
1368 (i) beginning July 1, 1996, through June 30, 1997, 30% of the sale or lease described in
1369 Subsection (14)(a)(ii) is exempt;
1370 (ii) beginning July 1, 1997, through June 30, 1998, 60% of the sale or lease described
1371 in Subsection (14)(a)(ii) is exempt; and
1372 (iii) beginning July 1, 1998, 100% of the sale or lease described in Subsection
1373 (14)(a)(ii) is exempt;

1374 (c) for purposes of this Subsection (14), the commission shall by rule define the terms
1375 "new or expanding operations" and "establishment"; and

1376 (d) on or before October 1, 1991, and every five years after October 1, 1991, the
1377 commission shall:

1378 (i) review the exemptions described in Subsection (14)(a) and make recommendations
1379 to the Revenue and Taxation Interim Committee concerning whether the exemptions should be
1380 continued, modified, or repealed; and

1381 (ii) include in its report:

1382 (A) the cost of the exemptions;

1383 (B) the purpose and effectiveness of the exemptions; and

1384 (C) the benefits of the exemptions to the state;

1385 (15) (a) sales of the following if the requirements of Subsection (15)(b) are met:

1386 (i) tooling;

1387 (ii) special tooling;

1388 (iii) support equipment;

1389 (iv) special test equipment; or

1390 (v) parts used in the repairs or renovations of tooling or equipment described in
1391 Subsections (15)(a)(i) through (iv); and

1392 (b) sales of tooling, equipment, or parts described in Subsection (15)(a) are exempt if:

1393 (i) the tooling, equipment, or parts are used or consumed exclusively in the
1394 performance of any aerospace or electronics industry contract with the United States
1395 government or any subcontract under that contract; and

1396 (ii) under the terms of the contract or subcontract described in Subsection (15)(b)(i),
1397 title to the tooling, equipment, or parts is vested in the United States government as evidenced
1398 by:

1399 (A) a government identification tag placed on the tooling, equipment, or parts; or

1400 (B) listing on a government-approved property record if placing a government
1401 identification tag on the tooling, equipment, or parts is impractical;

1402 (16) intrastate movements of:
1403 (a) freight by common carriers; or
1404 (b) passengers:
1405 (i) by taxicabs as described in SIC Code 4121 of the 1987 Standard Industrial
1406 Classification Manual of the federal Executive Office of the President, Office of Management
1407 and Budget;
1408 (ii) transported by an establishment described in SIC Code 4111 of the 1987 Standard
1409 Industrial Classification Manual of the federal Executive Office of the President, Office of
1410 Management and Budget, if the transportation originates and terminates within a county of the
1411 first, second, or third class; or
1412 (iii) transported by the following described in SIC Code 4789 of the 1987 Standard
1413 Industrial Classification Manual of the federal Executive Office of the President, Office of
1414 Management and Budget:
1415 (A) a horse-drawn cab; or
1416 (B) a horse-drawn carriage;
1417 (17) sales of newspapers or newspaper subscriptions;
1418 (18) (a) except as provided in Subsection (18)(b), tangible personal property traded in
1419 as full or part payment of the purchase price, except that for purposes of calculating sales or use
1420 tax upon vehicles not sold by a vehicle dealer, trade-ins are limited to other vehicles only, and
1421 the tax is based upon:
1422 (i) the bill of sale or other written evidence of value of the vehicle being sold and the
1423 vehicle being traded in; or
1424 (ii) in the absence of a bill of sale or other written evidence of value, the then existing
1425 fair market value of the vehicle being sold and the vehicle being traded in, as determined by the
1426 commission; and
1427 (b) notwithstanding Subsection (18)(a), Subsection (18)(a) does not apply to the
1428 following items of tangible personal property traded in as full or part payment of the purchase
1429 price:

- 1430 (i) money;
- 1431 (ii) electricity;
- 1432 (iii) water;
- 1433 (iv) gas; or
- 1434 (v) steam;
- 1435 (19) (a) (i) except as provided in Subsection (19)(b), sales of tangible personal property
- 1436 used or consumed primarily and directly in farming operations, regardless of whether the
- 1437 tangible personal property:
- 1438 (A) becomes part of real estate; or
- 1439 (B) is installed by a:
- 1440 (I) farmer;
- 1441 (II) contractor; or
- 1442 (III) subcontractor; or
- 1443 (ii) sales of parts used in the repairs or renovations of tangible personal property if the
- 1444 tangible personal property is exempt under Subsection (19)(a)(i); and
- 1445 (b) notwithstanding Subsection (19)(a), amounts paid or charged for the following
- 1446 tangible personal property are subject to the taxes imposed by this chapter:
- 1447 (i) (A) subject to Subsection (19)(b)(i)(B), the following tangible personal property if
- 1448 the tangible personal property is used in a manner that is incidental to farming:
- 1449 (I) machinery;
- 1450 (II) equipment;
- 1451 (III) materials; or
- 1452 (IV) supplies; and
- 1453 (B) tangible personal property that is considered to be used in a manner that is
- 1454 incidental to farming includes:
- 1455 (I) hand tools; or
- 1456 (II) maintenance and janitorial equipment and supplies;
- 1457 (ii) (A) subject to Subsection (19)(b)(ii)(B), tangible personal property if the tangible

1458 personal property is used in an activity other than farming; and
1459 (B) tangible personal property that is considered to be used in an activity other than
1460 farming includes:
1461 (I) office equipment and supplies; or
1462 (II) equipment and supplies used in:
1463 (Aa) the sale or distribution of farm products;
1464 (Bb) research; or
1465 (Cc) transportation; or
1466 (iii) a vehicle required to be registered by the laws of this state during the period ending
1467 two years after the date of the vehicle's purchase;
1468 (20) sales of hay;
1469 (21) exclusive sale of locally grown seasonal crops, seedling plants, or garden, farm, or
1470 other agricultural produce if sold by a producer during the harvest season;
1471 (22) purchases made using a coupon as defined in 7 U.S.C. Sec. 2012 that is issued
1472 under the Food Stamp Program, 7 U.S.C. Sec. 2011 et seq.;;
1473 (23) sales of nonreturnable containers, nonreturnable labels, nonreturnable bags,
1474 nonreturnable shipping cases, and nonreturnable casings to a manufacturer, processor,
1475 wholesaler, or retailer for use in packaging tangible personal property to be sold by that
1476 manufacturer, processor, wholesaler, or retailer;
1477 (24) property stored in the state for resale;
1478 (25) property brought into the state by a nonresident for his or her own personal use or
1479 enjoyment while within the state, except property purchased for use in Utah by a nonresident
1480 living and working in Utah at the time of purchase;
1481 (26) property purchased for resale in this state, in the regular course of business, either
1482 in its original form or as an ingredient or component part of a manufactured or compounded
1483 product;
1484 (27) property upon which a sales or use tax was paid to some other state, or one of its
1485 subdivisions, except that the state shall be paid any difference between the tax paid and the tax

1486 imposed by this part and Part 2, Local Sales and Use Tax Act, and no adjustment is allowed if
1487 the tax paid was greater than the tax imposed by this part and Part 2, Local Sales and Use Tax
1488 Act;

1489 (28) any sale of a service described in Subsections 59-12-103(1)(b), (c), and (d) to a
1490 person for use in compounding a service taxable under the subsections;

1491 (29) purchases made in accordance with the special supplemental nutrition program for
1492 women, infants, and children established in 42 U.S.C. Sec. 1786;

1493 (30) beginning on July 1, 1999, through June 30, 2014, sales or leases of rolls, rollers,
1494 refractory brick, electric motors, or other replacement parts used in the furnaces, mills, or ovens
1495 of a steel mill described in SIC Code 3312 of the 1987 Standard Industrial Classification
1496 Manual of the federal Executive Office of the President, Office of Management and Budget;

1497 (31) sales of boats of a type required to be registered under Title 73, Chapter 18, State
1498 Boating Act, boat trailers, and outboard motors which are made to bona fide nonresidents of
1499 this state and are not thereafter registered or used in this state except as necessary to transport
1500 them to the borders of this state;

1501 (32) sales of aircraft manufactured in Utah if sold for delivery and use outside Utah
1502 where a sales or use tax is not imposed, even if the title is passed in Utah;

1503 (33) amounts paid for the purchase of telephone service for purposes of providing
1504 telephone service;

1505 (34) fares charged to persons transported directly by a public transit district created
1506 under the authority of Title 17A, Chapter 2, Part 10, Utah Public Transit District Act;

1507 (35) sales or leases of vehicles to, or use of vehicles by an authorized carrier;

1508 (36) (a) 45% of the sales price of any new manufactured home; and

1509 (b) 100% of the sales price of any used manufactured home;

1510 (37) sales relating to schools and fundraising sales;

1511 (38) sales or rentals of durable medical equipment if:

1512 (a) a person presents a prescription for the durable medical equipment; and

1513 (b) the durable medical equipment is used for home use only;

1514 (39) (a) sales to a ski resort of electricity to operate a passenger ropeway as defined in
1515 Section 72-11-102; and

1516 (b) the commission shall by rule determine the method for calculating sales exempt
1517 under Subsection (39)(a) that are not separately metered and accounted for in utility billings;

1518 (40) sales to a ski resort of:

1519 (a) snowmaking equipment;

1520 (b) ski slope grooming equipment;

1521 (c) passenger ropeways as defined in Section 72-11-102; or

1522 (d) parts used in the repairs or renovations of equipment or passenger ropeways
1523 described in Subsections (40)(a) through (c);

1524 (41) sales of natural gas, electricity, heat, coal, fuel oil, or other fuels for industrial use;

1525 (42) (a) subject to Subsection (42)(b), sales or rentals of the right to use or operate for
1526 amusement, entertainment, or recreation [a coin-operated] an unassisted amusement device as
1527 defined in Section 59-12-102;

1528 (b) if a seller that sells or rents at the same business location the right to use or operate
1529 for amusement, entertainment, or recreation one or more unassisted amusement devices and
1530 one or more assisted amusement devices, the exemption described in Subsection (42)(a)
1531 applies if the seller separately accounts for the sales or rentals of the right to use or operate for
1532 amusement, entertainment, or recreation for the assisted amusement devices; and

1533 (c) for purposes of Subsection (42)(b) and in accordance with Title 63, Chapter 46a,
1534 Utah Administrative Rulemaking Act, the commission may make rules:

1535 (i) governing the circumstances under which sales are at the same business location;
1536 and

1537 (ii) establishing the procedures and requirements for a seller to separately account for
1538 the sales or rentals of the right to use or operate for amusement, entertainment, or recreation for
1539 assisted amusement devices;

1540 ~~[(43) sales of cleaning or washing of tangible personal property by a coin-operated car~~
1541 ~~wash machine;]~~

1542 [~~(44)~~] (43) sales by the state or a political subdivision of the state, except state
1543 institutions of higher education as defined in Section 53B-3-102, of:
1544 (a) photocopies; or
1545 (b) other copies of records held or maintained by the state or a political subdivision of
1546 the state;
1547 [~~(45)~~] (44) (a) amounts paid:
1548 (i) to a person providing intrastate transportation to an employer's employee to or from
1549 the employee's primary place of employment;
1550 (ii) by an:
1551 (A) employee; or
1552 (B) employer; and
1553 (iii) pursuant to a written contract between:
1554 (A) the employer; and
1555 (B) (I) the employee; or
1556 (II) a person providing transportation to the employer's employee; and
1557 (b) in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
1558 commission may for purposes of Subsection [~~(45)~~] (44)(a) make rules defining what constitutes
1559 an employee's primary place of employment;
1560 [~~(46)~~] (45) amounts paid for admission to an athletic event at an institution of higher
1561 education that is subject to the provisions of Title IX of the Education Amendments of 1972,
1562 20 U.S.C. Sec. 1681 et seq.;

1563 [~~(47)~~] (46) sales of telephone service charged to a prepaid telephone calling card;
1564 [~~(48)~~] (47) (a) sales of:
1565 (i) hearing aids;
1566 (ii) hearing aid accessories; or
1567 (iii) except as provided in Subsection [~~(48)~~] (47)(b), parts used in the repairs or
1568 renovations of hearing aids or hearing aid accessories; and
1569 (b) for purposes of this Subsection [~~(48)~~] (47), notwithstanding Subsection [~~(48)~~]

1570 ~~(47)~~(a)(iii), "parts" does not include batteries;

1571 ~~[(49)]~~ (48) (a) sales made to or by:

1572 (i) an area agency on aging; or

1573 (ii) a senior citizen center owned by a county, city, or town; or

1574 (b) sales made by a senior citizen center that contracts with an area agency on aging;

1575 ~~[(50)]~~ (49) (a) beginning on July 1, 2001, through June 30, 2007, and subject to

1576 Subsection ~~[(50)]~~ (49)(b), a sale or lease of semiconductor fabricating or processing materials

1577 regardless of whether the semiconductor fabricating or processing materials:

1578 (i) actually come into contact with a semiconductor; or

1579 (ii) ultimately become incorporated into real property;

1580 (b) (i) beginning on July 1, 2001, through June 30, 2002, 10% of the sale or lease

1581 described in Subsection ~~[(50)]~~ (49)(a) is exempt;

1582 (ii) beginning on July 1, 2002, through June 30, 2003, 50% of the sale or lease

1583 described in Subsection ~~[(50)]~~ (49)(a) is exempt; and

1584 (iii) beginning on July 1, 2003, through June 30, 2007, the entire amount of the sale or

1585 lease described in Subsection ~~[(50)]~~ (49)(a) is exempt; and

1586 (c) each year on or before the November interim meeting, the Revenue and Taxation

1587 Interim Committee shall:

1588 (i) review the exemption described in this Subsection ~~[(50)]~~ (49) and make

1589 recommendations concerning whether the exemption should be continued, modified, or

1590 repealed; and

1591 (ii) include in the review under this Subsection ~~[(50)]~~ (49)(c):

1592 (A) the cost of the exemption;

1593 (B) the purpose and effectiveness of the exemption; and

1594 (C) the benefits of the exemption to the state;

1595 ~~[(51)]~~ (50) an amount paid by or charged to a purchaser for accommodations and

1596 services described in Subsection 59-12-103(1)(i) to the extent the amount is exempt under

1597 Section 59-12-104.2;

1598 [~~(52)~~] (51) beginning on September 1, 2001, the lease or use of a vehicle issued a
1599 temporary sports event registration certificate in accordance with Section 41-3-306 for the
1600 event period specified on the temporary sports event registration certificate;

1601 [~~(53)~~] (52) sales or uses of electricity, if the sales or uses are:

1602 (a) made under a tariff adopted by the Public Service Commission of Utah only for
1603 purchase of electricity produced from a new wind, geothermal, biomass, or solar power energy
1604 source, as designated in the tariff by the Public Service Commission of Utah; and

1605 (b) for an amount of electricity that is:

1606 (i) unrelated to the amount of electricity used by the person purchasing the electricity
1607 under the tariff described in Subsection [~~(53)~~] (52)(a); and

1608 (ii) equivalent to the number of kilowatthours specified in the tariff described in
1609 Subsection [~~(53)~~] (52)(a) that may be purchased under the tariff described in Subsection [~~(53)~~]
1610 (52)(a);

1611 [~~(54)~~] (53) sales or rentals of mobility enhancing equipment if a person presents a
1612 prescription for the mobility enhancing equipment;

1613 [~~(55)~~] (54) sales of water in a:

1614 (a) pipe;

1615 (b) conduit;

1616 (c) ditch; or

1617 (d) reservoir;

1618 [~~(56)~~] (55) sales of currency or coinage that constitute legal tender of the United States
1619 or of a foreign nation;

1620 [~~(57)~~] (56) (a) sales of an item described in Subsection [~~(57)~~] (56)(b) if the item:

1621 (i) does not constitute legal tender of any nation; and

1622 (ii) has a gold, silver, or platinum content of 80% or more; and

1623 (b) Subsection [~~(57)~~] (56)(a) applies to a gold, silver, or platinum:

1624 (i) ingot;

1625 (ii) bar;

1626 (iii) medallion; or
1627 (iv) decorative coin;
1628 [~~58~~] (57) amounts paid on a sale-leaseback transaction;
1629 [~~59~~] (58) sales of a prosthetic device:
1630 (a) for use on or in a human;
1631 (b) for which a prescription is issued; and
1632 (c) to a person that presents a prescription for the prosthetic device;
1633 [~~60~~] (59) (a) except as provided in Subsection [~~60~~] (59)(b), purchases, leases, or
1634 rentals of machinery or equipment by an establishment described in Subsection [~~60~~] (59)(c) if
1635 the machinery or equipment is primarily used in the production or postproduction of the
1636 following media for commercial distribution:
1637 (i) a motion picture;
1638 (ii) a television program;
1639 (iii) a movie made for television;
1640 (iv) a music video;
1641 (v) a commercial;
1642 (vi) a documentary; or
1643 (vii) a medium similar to Subsections [~~60~~] (59)(a)(i) through (vi) as determined by
1644 the commission by administrative rule made in accordance with Subsection [~~60~~] (59)(d); or
1645 (b) notwithstanding Subsection [~~60~~] (59)(a), purchases, leases, or rentals of
1646 machinery or equipment by an establishment described in Subsection [~~60~~] (59)(c) that is used
1647 for the production or postproduction of the following are subject to the taxes imposed by this
1648 chapter:
1649 (i) a live musical performance;
1650 (ii) a live news program; or
1651 (iii) a live sporting event;
1652 (c) the following establishments listed in the 1997 North American Industry
1653 Classification System of the federal Executive Office of the President, Office of Management

1654 and Budget, apply to Subsections [~~60~~] (59)(a) and (b):

1655 (i) NAICS Code 512110; or

1656 (ii) NAICS Code 51219; and

1657 (d) in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the

1658 commission may by rule:

1659 (i) prescribe what constitutes a medium similar to Subsections [~~60~~] (59)(a)(i) through

1660 (vi); or

1661 (ii) define:

1662 (A) "commercial distribution";

1663 (B) "live musical performance";

1664 (C) "live news program"; or

1665 (D) "live sporting event";

1666 [~~61~~] (60) (a) leases of seven or more years or purchases made on or after July 1, 2004

1667 but on or before June 30, 2009, of machinery or equipment that:

1668 (i) is leased or purchased for or by a facility that:

1669 (A) is a renewable energy production facility;

1670 (B) is located in the state; and

1671 (C) (I) becomes operational on or after July 1, 2004; or

1672 (II) has its generation capacity increased by one or more megawatts on or after July 1,

1673 2004 as a result of the use of the machinery or equipment;

1674 (ii) has an economic life of five or more years; and

1675 (iii) is used to make the facility or the increase in capacity of the facility described in

1676 Subsection [~~61~~] (60)(a)(i) operational up to the point of interconnection with an existing

1677 transmission grid including:

1678 (A) a wind turbine;

1679 (B) generating equipment;

1680 (C) a control and monitoring system;

1681 (D) a power line;

- 1682 (E) substation equipment;
- 1683 (F) lighting;
- 1684 (G) fencing;
- 1685 (H) pipes; or
- 1686 (I) other equipment used for locating a power line or pole; and
- 1687 (b) this Subsection [~~(61)~~] (60) does not apply to:
- 1688 (i) machinery or equipment used in construction of:
- 1689 (A) a new renewable energy production facility; or
- 1690 (B) the increase in the capacity of a renewable energy production facility;
- 1691 (ii) contracted services required for construction and routine maintenance activities;
- 1692 and
- 1693 (iii) unless the machinery or equipment is used or acquired for an increase in capacity
- 1694 of the facility described in Subsection [~~(61)~~] (60)(a)(i)(C)(II), machinery or equipment used or
- 1695 acquired after:
- 1696 (A) the renewable energy production facility described in Subsection [~~(61)~~] (60)(a)(i) is
- 1697 operational as described in Subsection [~~(61)~~] (60)(a)(iii); or
- 1698 (B) the increased capacity described in Subsection [~~(61)~~] (60)(a)(i) is operational as
- 1699 described in Subsection [~~(61)~~] (60)(a)(iii);
- 1700 [~~(62)~~] (61) (a) leases of seven or more years or purchases made on or after July 1, 2004
- 1701 but on or before June 30, 2009, of machinery or equipment that:
- 1702 (i) is leased or purchased for or by a facility that:
- 1703 (A) is a waste energy production facility;
- 1704 (B) is located in the state; and
- 1705 (C) (I) becomes operational on or after July 1, 2004; or
- 1706 (II) has its generation capacity increased by one or more megawatts on or after July 1,
- 1707 2004 as a result of the use of the machinery or equipment;
- 1708 (ii) has an economic life of five or more years; and
- 1709 (iii) is used to make the facility or the increase in capacity of the facility described in

1710 Subsection [~~62~~] (61)(a)(i) operational up to the point of interconnection with an existing
1711 transmission grid including:

- 1712 (A) generating equipment;
- 1713 (B) a control and monitoring system;
- 1714 (C) a power line;
- 1715 (D) substation equipment;
- 1716 (E) lighting;
- 1717 (F) fencing;
- 1718 (G) pipes; or
- 1719 (H) other equipment used for locating a power line or pole; and

1720 (b) this Subsection [~~62~~] (61) does not apply to:

- 1721 (i) machinery or equipment used in construction of:
 - 1722 (A) a new waste energy facility; or
 - 1723 (B) the increase in the capacity of a waste energy facility;
- 1724 (ii) contracted services required for construction and routine maintenance activities;

1725 and

1726 (iii) unless the machinery or equipment is used or acquired for an increase in capacity
1727 described in Subsection [~~62~~] (61)(a)(i)(C)(II), machinery or equipment used or acquired after:

1728 (A) the waste energy facility described in Subsection [~~62~~] (61)(a)(i) is operational as
1729 described in Subsection [~~62~~] (61)(a)(iii); or

1730 (B) the increased capacity described in Subsection [~~62~~] (61)(a)(i) is operational as
1731 described in Subsection [~~62~~] (61)(a)(iii);

1732 [~~63~~] (62) (a) leases of five or more years or purchases made on or after July 1, 2004
1733 but on or before June 30, 2009, of machinery or equipment that:

- 1734 (i) is leased or purchased for or by a facility that:
 - 1735 (A) is located in the state;
 - 1736 (B) produces fuel from biomass energy including:
 - 1737 (I) methanol; or

1738 (II) ethanol; and
 1739 (C) (I) becomes operational on or after July 1, 2004; or
 1740 (II) has its capacity to produce fuel increase by 25% or more on or after July 1, 2004 as
 1741 a result of the installation of the machinery or equipment;
 1742 (ii) has an economic life of five or more years; and
 1743 (iii) is installed on the facility described in Subsection [~~(63)~~] (62)(a)(i);
 1744 (b) this Subsection [~~(63)~~] (62) does not apply to:
 1745 (i) machinery or equipment used in construction of:
 1746 (A) a new facility described in Subsection [~~(63)~~] (62)(a)(i); or
 1747 (B) the increase in capacity of the facility described in Subsection [~~(63)~~] (62)(a)(i); or
 1748 (ii) contracted services required for construction and routine maintenance activities;
 1749 and
 1750 (iii) unless the machinery or equipment is used or acquired for an increase in capacity
 1751 described in Subsection [~~(63)~~] (62)(a)(i)(C)(II), machinery or equipment used or acquired after:
 1752 (A) the facility described in Subsection [~~(63)~~] (62)(a)(i) is operational; or
 1753 (B) the increased capacity described in Subsection [~~(63)~~] (62)(a)(i) is operational;
 1754 [~~(64)~~] (63) amounts paid to a purchaser as a rebate from the manufacturer of a new
 1755 vehicle for purchasing the new vehicle;
 1756 [~~(65)~~] (64) (a) subject to Subsection [~~(65)~~] (64)(b), sales of tangible personal property
 1757 to persons within this state that is subsequently shipped outside the state and incorporated
 1758 pursuant to contract into and becomes a part of real property located outside of this state,
 1759 except to the extent that the other state or political entity imposes a sales, use, gross receipts, or
 1760 other similar transaction excise tax on it against which the other state or political entity allows
 1761 a credit for taxes imposed by this chapter; and
 1762 (b) the exemption provided for in Subsection [~~(65)~~] (64)(a):
 1763 (i) is allowed only if the exemption is applied:
 1764 (A) in calculating the purchase price of the tangible personal property; and
 1765 (B) to a written contract that is in effect on July 1, 2004; and

1766 (ii) (A) does not apply beginning on the day on which the contract described in
1767 Subsection [~~(65)~~] (64)(b)(i):
1768 (I) is substantially modified; or
1769 (II) terminates; and
1770 (B) in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act,
1771 the commission may by rule prescribe the circumstances under which a contract is substantially
1772 modified;

1773 [~~(66)~~] (65) purchases:
1774 (a) of one or more of the following items in printed or electronic format:
1775 (i) a list containing information that includes one or more:
1776 (A) names; or
1777 (B) addresses; or
1778 (ii) a database containing information that includes one or more:
1779 (A) names; or
1780 (B) addresses; and
1781 (b) used to send direct mail; and
1782 [~~(67)~~] (66) redemptions or repurchases of property by a person if that property was:
1783 (a) delivered to a pawnbroker as part of a pawn transaction; and
1784 (b) redeemed or repurchased within the time period established in a written agreement
1785 between the person and the pawnbroker for redeeming or repurchasing the property.

1786 Section 5. Section **59-12-105 (Portions Eff 07/01/06 See 59-1-1201)** is amended to
1787 read:

1788 **59-12-105 (Portions Eff 07/01/06 See 59-1-1201). Certain exempt sales to be**
1789 **reported -- Report by seller that files a simplified electronic return -- Penalties.**

1790 (1) An owner or purchaser shall report to the commission the amount of sales or uses
1791 exempt under Subsection 59-12-104(14) or [~~(50)~~] (49).

1792 (2) (a) A seller that files a simplified electronic return with the commission shall file a
1793 report containing the information described in Subsection (2)(b).

- 1794 (b) The report required by Subsection (2)(a) shall contain the following amounts:
- 1795 (i) for each store location that the seller has within the state:
- 1796 (A) the total amount of sales;
- 1797 (B) the total amount of sales that are exempt from a tax imposed by this chapter; and
- 1798 (C) the difference between the amount described in Subsection (2)(b)(i)(A) and the
- 1799 amount described in Subsection (2)(b)(i)(B);
- 1800 (ii) for the total amount of sales that the seller makes from a location in the state other
- 1801 than a fixed place of business in the state:
- 1802 (A) the total amount of sales;
- 1803 (B) the total amount of sales that are exempt from a tax imposed by this chapter; and
- 1804 (C) the difference between the amount described in Subsection (2)(b)(ii)(A) and the
- 1805 amount described in Subsection (2)(b)(ii)(B); and
- 1806 (iii) for the total amount of sales that the seller makes where inventory is shipped from
- 1807 a location outside the state:
- 1808 (A) the total amount of sales;
- 1809 (B) the total amount of sales that are exempt from a tax imposed by this chapter; and
- 1810 (C) the difference between the amount described in Subsection (2)(b)(iii)(A) and the
- 1811 amount described in Subsection (2)(b)(iii)(B).
- 1812 (3) (a) A report required by Subsection (1) or (2) shall be filed:
- 1813 (i) with the commission; and
- 1814 (ii) on a form prescribed by the commission.
- 1815 (b) A report required by Subsection (2) shall be filed electronically.
- 1816 (c) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
- 1817 commission shall make rules providing:
- 1818 (i) the information required to be included in the reports described in Subsections (1)
- 1819 and (2); and
- 1820 (ii) one or more due dates for filing the reports described in:
- 1821 (A) Subsection (1); and

1822 (B) Subsection (2).

1823 (4) (a) Notwithstanding Section 59-1-401, and except as provided in Subsections (4)(b)
1824 and (6), if the owner or purchaser fails to report the full amount of the exemptions granted
1825 under Subsection 59-12-104(14) or [~~50~~] (49) on the report required by Subsection (1), the
1826 commission shall impose a penalty equal to the lesser of:

1827 (i) 10% of the sales and use tax that would have been imposed if the exemption had not
1828 applied; or

1829 (ii) \$1,000.

1830 (b) Notwithstanding Subsection (4)(a)(i), the commission may not impose a penalty
1831 under Subsection (4)(a)(i) if the owner or purchaser files an amended report:

1832 (i) containing the amount of the exemption; and

1833 (ii) before the owner or purchaser receives a notice of audit from the commission.

1834 (5) Notwithstanding Section 59-1-401, and except as provided in Subsection (6), if a
1835 seller fails to report the amounts required by Subsection (2), the commission shall impose a
1836 penalty of \$1,000.

1837 (6) (a) Notwithstanding Subsection (4)(a) or (5), the commission may waive, reduce, or
1838 compromise a penalty imposed under this section if the commission finds there are reasonable
1839 grounds for the waiver, reduction, or compromise.

1840 (b) If the commission waives, reduces, or compromises a penalty under Subsection
1841 (6)(a), the commission shall make a record of the grounds for waiving, reducing, or
1842 compromising the penalty.

1843 **Section 6. Effective date.**

1844 This bill takes effect on July 1, 2006.